



# **Superior Court of California County of Mendocino**

## **Proposed Changes to Local Rules and Local Fees**

Publication Date: Friday, September 13, 2019

Deadline for Comment: Monday, October 28, 2019  
by 4:00 p.m.

Effective Date: January 1, 2020

## Summary of Proposed Changes to Local Rules for January 1, 2020

Summary of Changes	
Rule:	Changes:
1.8	New rule.
1.9	Renumbered rule 1.8.
1.10	Renumbered rule 1.9.
1.11	Renumbered rule 1.10.
1.12	Renumbered rule 1.11.
1.13	Renumbered rule 1.12.
1.14	Renumbered rule 1.13.
1.15	Renumbered rule 1.14.
1.16	Renumbered rule 1.15.
1.17	Renumbered rule 1.16.
1.18	Renumbered rule 1.17.
1.19	Renumbered rule 1.18.
1.20	Renumbered rule 1.19. Wording amended.
1.21	Renumbered rule 1.20. Wording amended.
1.22	Renumbered rule 1.21. Rule reference added.
1.23	Renumbered rule 1.22.
1.24	Renumbered rule 1.23.
1.25	Renumbered rule 1.24.
1.26	Renumbered rule 1.25.
1.27	Renumbered rule 1.26.
1.28	Renumbered rule 1.27.
1.29	Renumbered rule 1.28. Wording amended.
1.30	Renumbered rule 1.29.
1.31	Renumbered rule 1.30.
1.32	Renumbered rule 1.31.
1.33	Renumbered rule 1.32.
1.34	Renumbered rule 1.33.
1.35	Renumbered rule 1.34.
1.36	Renumbered rule 1.35.
1.37	New rule.
2.4	Wording amended.
2.9	Updated rule reference.
2.15	Old Rule repealed. Renumbered rule 2.16.
2.16	Renumbered rule 2.17.
2.17	Renumbered rule 2.18.
2.18	Renumbered rule 2.19.

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<b>Summary of Changes</b>	
<b>Rule:</b>	<b>Changes:</b>
2.19	Renumbered rule 2.20.
2.20	Renumbered rule 2.21.
2.21	Renumbered rule 2.22.
2.22	Renumbered rule 2.23.
2.23	Renumbered rule 2.24
2.24	Renumbered rule 2.25
2.25	Renumbered rule 2.26
2.26	Renumbered rule 2.27
2.27	Renumbered rule 2.28.
2.28	Renumbered rule 2.29.
2.29	Renumbered rule 2.30.
2.30	Renumbered rule 2.31.
3.1	Old rule repealed. Renumbered rule 3.7. Wording amended.
3.2	Old rule repealed. New rule.
3.3	Old rule repealed. New rule.
3.4	Old rule repealed. Renumbered rule 3.5.
3.5	Old rule renumbered to 3.4. Renumbered rule 3.10. Wording amended.
3.6	Old rule repealed. Renumbered rule 3.11. Wording amended.
3.7	Old rule renumbered to 3.1. Renumbered rule 3.12.
3.8	Old rule repealed. Renumbered rule 3.13. Wording amended.
3.9	Old rule repealed. Renumbered rule 3.14.
3.10	Old rule renumbered to 3.5. Renumbered rule 3.15.
3.11	Old rule renumbered to 3.6. New rule.
4.6	Updated rule reference.
4.9	Updated rule reference.
4.11	Updated rule reference.
7.2	Old rule repealed. New rule.
7.3	Wording amended.
7.4	Wording amended.
8.5	Wording amended.
8.6	New rule.

## **Chapter 1: General Court Rules**

### **General Rules**

#### **1.1 Citation**

These rules will be known and cited as the, “Local Rules of the Superior Court of California, County of Mendocino,” and at all times be supplementary to and subject to statutes, the California Rules of Court, and any rules adopted by the Judicial Council of California, and shall be construed and applied so they do not conflict with such rules and statutes.

*(Effective 1/1/99; amended 7/1/08; renumbered 7/1/19)*

#### **1.2 Failure to Comply with Local Rules or Orders of the Court**

In the event of any failure to comply with the local rules, the California Rules of Court, or any order of the court related thereto, the court may impose upon the offending party, attorney, or both, sanctions which may include, but are not limited to, requiring the filing of an attorney’s compliance statement, attorney’s case schedule, monetary sanctions, attorney’s fees, expenses, striking pleadings, entering the default of any party, dismissal of the action, and/or contempt, and any other sanctions authorized by Government Code § 68609(d) and any other statute.

*(Effective 1/1/99; amended 1/1/03; renumbered & amended 7/1/08; renumbered 1/1/10; renumbered 7/1/19)*

#### **1.3 Administration of the Courts**

- a. **Location.** Sessions of the court will be held in Ukiah, Fort Bragg, and Point Arena, California.
- b. **Sessions of the Court.** Court sessions are established to provide the most efficient operation of the court for the benefit of the public and cost-savings. Counsel should be aware that calendared matters or court sessions may change; if there is any question regarding scheduling of matters to be heard by the court, counsel should contact that particular court for further information.
- c. **Complaints re: Bias or Sexual Harassment.** Court employees, attendants, and officers of the court will not engage in any conduct or activity that causes or contributes to bias or sexual harassment in the court system. Any person who observes or believes he or she has been subjected to bias or sexual harassment shall immediately report the incident to Court Administration.
- d. **Emergencies and Evacuations.** The Mendocino County Sheriff’s Department will serve as the Court Security Office and be responsible for the welfare and security of all occupants and visitors in the courthouse facilities. All judges,

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commissioners, and staff must follow the directions of the Court Security Office in the event of an emergency and/or evacuation.

The Court Security Office will have all the authority to order an evacuation as authorized under Penal Code § 409.5.

*(Effective 7/1/19)*

### 1.4 Courtroom Conduct

- a. **Attorney Conduct.** Attorneys who appear in court will be respectful of the court, its judicial officers, and staff. Further, attorneys will behave in a polite and professional manner toward opposing counsel, opposing parties, witnesses, and members of the court staff. Attorneys must be familiar with the rules and guidelines set forth in these local rules as well as other applicable statutes and rules of conduct, ethics, and professionalism. Finally, attorneys will make reasonable efforts to advise clients, witnesses, and others accompanying them of these rules.
- b. **Additional Persons in the Courtroom.** Persons in the courtroom will not talk to court staff when court is in session unless they are asked to do so by a judge or staff member. They will not converse with anyone in a manner that is distracting to the proceedings before the court. They will not eat or drink in the courtroom. They will not visibly or audibly display approval, disapproval, agreement or disagreement with any testimony, ruling or statement of the court, parties or witnesses.
- c. **Attire.** No person will appear in court unless properly attired and will not appear in court barefoot, with a bare midriff or wearing sunglasses, hats, shorts, tank tops or any clothing that displays inappropriate words or pictures. Attorneys will wear business attire.

This rule does not limit the power of any judicial officer to further prescribe appropriate attire in the courtroom.

- d. **Court Telephones and Cellular Phone.** No one other than a judicial officer or court staff will use a courtroom telephone without the express permission of the court.

Cellular phones will not be used to place calls in the courtroom at any time. All ring tones, alerts, and alarms must be silenced when in the courtroom.

*(Effective 7/1/19)*

**1.5 Communications to Court or Jury**

- a. Counsel will instruct their staff, clients, witnesses, and other related persons not to have communication with court staff pertaining to the pending litigation unless it is on the record with all parties present.
- b. Counsel will instruct their clients, witnesses, and others associated with the case to have no communication whatsoever with any juror or alternate juror.

*(Effective 1/1/99; renumbered 7/1/08; renumbered 1/1/19; renumbered & amended 7/1/19)*

**1.6 Case Initiation and Assignment**

**a. Civil Case Initiation**

1. The following civil case types may be filed and heard in the Ukiah or the Ten Mile court locations:
  - a. Limited and unlimited civil proceedings;
  - b. Probate proceedings;
  - c. Family law proceedings.
2. The following case types must be filed and heard only in the Ukiah court location:
  - a. Conservatorships under the Lanterman-Petris Short Act (LPS cases);
  - b. Qui Tam actions under the False Claims Act (Government Code §§ 12650-12656); and
  - c. Proceedings under Public Resources Code § 21000 et.seq. related to issues under the California Environmental Quality Act (CEQA cases).

**b. Case Numbers**

1. All cases initiated in Ukiah will be assigned a case number that begins with “MCUK” or “SCUK.”
2. All cases initiated in Ten Mile will be assigned a case number that begins with “MCTM” or “SCTM.”

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### c. Document Filing.

1. After initiation, pleadings of cases defined in paragraph a(1) above, may be filed in either the Ukiah or the Fort Bragg locations at the public counter accepting civil, family law, and probate documents.
2. Pleadings or other documents pertaining to cases defined in paragraph a(2) above may be filed only in the Ukiah Court.

### d. Case Assignment

1. All cases with a number that begins with “MCUK” or “SCUK” will be set for hearing in Ukiah unless the court, on its own motion or on the oral or written motion of a party, has ordered that the matter will be heard in the Ten Mile courthouse.
2. All cases with a number that begins with “MCTM” or “SCTM” will be set for hearing in Ten Mile unless the court, on its own motion or on the oral or written motion of a party, has ordered that the matter will be heard in the Ukiah courthouse.
3. The court may order the transfer of a case from one branch of the court to the other for a limited purpose (i.e., a particular hearing, for mediation, etc.), or for all purposes.
4. Jury trials set in Ten Mile will not be transferred to Ukiah absent a written motion with appropriate notice and hearing before the court. A stipulation to transfer will not be effective without approval of the presiding judge.

*(Effective 1/1/18; renumbered 1/1/19; renumbered & amended 7/1/19)*

## 1.7 Filing of Documents

- a. **Facsimile Filing.** All documents, with the exception of Tribal Court Protective Orders, must be presented for filing at the clerk’s office.

Tribal Court Protective Orders that are entitled to be registered under Family Code § 6404 may be filed by facsimile directly with the clerk’s office in accordance with California Rules of Court rules 5.386, 2.300, 2.301, 2.302, 2.303, 2.304, and 2.305.

- b. **Pre-paid, Self-Addressed Envelopes Required.** A self-addressed envelope of sufficient size, with sufficient postage affixed, is required for mailing of file documents to the filing party. Filed documents that do not have return envelopes with sufficient postage will be retained in the clerk’s office for 30 days from the date of filing. If unclaimed, the documents will be destroyed.

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- c. **Conforming Copies.** The court clerk will conform three (3) copies of any document at the time of filing.
- d. **Drop Box – Ukiah.** Litigants and attorneys filing civil, family law, probate, and juvenile pleadings in Ukiah may place their documents into a drop box in lieu of standing in line at the clerk's window. Matters requiring immediate judicial attention (i.e. requests for temporary orders, requests for restraining orders based on domestic violence or civil harassment, ex parte filings, etc.) should not be deposited in the drop box.

Located on the main floor of the Ukiah courthouse, parties may place their pleadings in the drop box throughout the business day. Documents date and time stamped on or before 5:00 p.m. will be filed as of the date received. Documents **not** date and time stamped will be filed the next business day regardless of when the documents were placed in the drop box. The clerk will conform three (3) copies of each document and place the conformed copies in either the public pick up basket or attorney boxes located in room 107 or return by regular mail if a self-addressed stamped envelope is provided. If a courtesy copy is required for the filing and has not been provided, the clerk will retain one (1) conformed copy as the courtesy copy.

Incomplete documents, documents without the appropriate filing fees (if applicable), or documents deposited in error will be returned to the filing party unprocessed. Filing parties assume the risk for documents deposited in the drop box in lieu of being filed directly with the clerk.

When placing documents in the drop box, filing parties and their counsel will:

1. Use the electronic time stamp located on top of the drop box to stamp documents with the date and time on the back of the last page.
2. Ensure that documents are in order and securely clipped together or placed in an envelope.
3. Securely affix checks or money orders, with the appropriate fees, to the front of the documents. Do NOT attach cash to pleadings deposited in the drop box.

- e. **“Courtesy Copies” for Specified Court Hearings**
  1. **Civil and Criminal Motions.** At the time of filing, litigants filing civil or criminal motions or Orders to Show Cause (OSC) for hearing must lodge one (1) additional court copy of all moving papers and pleadings for use by the judicial officer assigned to the matter. Any litigant opposing a motion or OSC will also be required to lodge one (1) additional court copy of all opposing papers and pleadings at the time of filing the opposition. The moving party will lodge one (1) additional court copy of all reply papers and pleadings at the time of filing the reply, if any.



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2. **Appellate Division Motions and Briefs.** Appellants and respondents will file an original plus three (3) court copies of any motion or brief filed in the appellate division of the court.
3. **Exceptions**
  - a. Motions which do not include a memorandum of points and authorities
  - b. Any motion for which the points and authorities in support of or in opposition to the motion do not exceed two (2) pages in length
  - c. Motions filed in *ex parte* hearings
4. **Submission of “Courtesy Copies” by Email.** The court encourages litigants or their counsel to email courtesy copies of filed documents to the court and all parties to the matter. The use of a file hosting service such as “Dropbox” will be permitted provided there is no cost to the court or other litigants. Electronic delivery of courtesy copies is encouraged.

Electronic delivery of courtesy copies is not a substitute for filing and service as required by the Code of Civil Procedures, the Penal Code, and the California Rules of Court. Each judge may, at his or her discretion, request a paper copy. All departments will accept electronic delivery of courtesy copies.

Generic email addresses have been established for courtesy copies. The transmitting email and attached copies are to be sent to each department as follows:

[DepartmentA@mendocino.courts.ca.gov](mailto:DepartmentA@mendocino.courts.ca.gov)  
[DepartmentB@mendocino.courts.ca.gov](mailto:DepartmentB@mendocino.courts.ca.gov)  
[DepartmentC@mendocino.courts.ca.gov](mailto:DepartmentC@mendocino.courts.ca.gov)  
[DepartmentCS@mendocino.courts.ca.gov](mailto:DepartmentCS@mendocino.courts.ca.gov) (Child Support cases only)  
[DepartmentE@mendocino.courts.ca.gov](mailto:DepartmentE@mendocino.courts.ca.gov)  
[DepartmentF@mendocino.courts.ca.gov](mailto:DepartmentF@mendocino.courts.ca.gov)  
[DepartmentG@mendocino.courts.ca.gov](mailto:DepartmentG@mendocino.courts.ca.gov)  
[DepartmentH@mendocino.courts.ca.gov](mailto:DepartmentH@mendocino.courts.ca.gov)  
[DepartmentTM@mendocino.courts.ca.gov](mailto:DepartmentTM@mendocino.courts.ca.gov)

Emailed courtesy copies must conform to the following specifications:

- a. All courtesy copies must be exact electronic copies of the documents as filed with the court.
- b. Only documents in PDF format will be accepted.
- c. The transmitting email and attached courtesy copies must be copied to all parties who have provided an email address.
- d. Emailed documents must have a file name in the following uniform format:

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[case number].[short title of document].[date of hearing].pdf  
For example, 1234567.OppositiontoDemurrer.010116.pdf

- e. The combined size of the email and all attachments cannot exceed 10 megabytes (MB).
- f. Do not include any text in the email as it will not be read or considered by the court.

*(Effective 7/1/19)*

### **1.8 Application for Waiver of Court Fees**

- a. Pursuant to California Rules of Court rule 3.50, parties may submit an application for a fee waiver if they meet the standards of eligibility set forth in Government Code §§ 68632 and 68633.
- b. Applicants for a Waiver of Court Fees must complete and file the Judicial Council of California Request to Waive Court Fee (FW-001) along with a prepared Order on Court Fee Waiver (FW-003).
- c. Court clerks are authorized to grant initial fee waiver applications that meet the standards noted in section (a) of this local rule.

*(Effective 1/1/20)*

### **1.81.9 Court Appearances via Telephone**

Unless otherwise ordered to appear in person, parties may appear by telephone in cases and proceedings defined in California Rules of Court rule 3.670(c), 3.670(d), 3.670(f), and 5.324(c).

In accordance with California Rules of Court rule 3.670(j), the court has contracted with CourtCall, LLC to provide teleconferencing services for court appearances. Information as to the forms and fees for requesting telephonic appearances may be obtained from CourtCall, LLC, at 1-888-88-COURT.

Request to appear by telephone must be submitted on the appropriate Judicial Council of California form at least 48 hours prior to the hearing. A party who chooses to appear by telephone will satisfy the requirements of California Rules of Court rule 3.670(i) for notice to the court by timely providing the CourtCall Telephonic Appearance Request form to CourtCall, LLC.

*(Effective 7/1/19; renumbered 1/1/20)*

**1.91.10 Obtaining Certified Copies of Exhibits**

At the conclusion of a trial/hearing and before the exhibits and other materials are returned to the offering party, parties may request certified copies of the exhibits. Copies will be provided at the expense of the requesting party.

*(Effective 7/1/11; renumbered 1/1/18; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

**1.101.11 Return of Exhibits; Civil, Family Law, and Probate**

Unless otherwise ordered, all exhibits and materials offered into evidence or otherwise presented at trials/hearings, including transcripts of depositions and administrative records, will be returned at the conclusion of the matter to the offering party. The custodial party must sign for all exhibits and materials returned by the court clerk and must maintain all exhibits and other materials in the same condition as received until 60 days after a final judgment or dismissal of the entire case is entered.

*(Effective 7/1/11; renumbered 1/1/18; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

**1.11.12 Payment in Coin**

Pursuant to Government Code § 24353, the court will not accept coins as payment of any bail, fine, or filing fee.

*(Effective 7/1/05; amended 7/1/08; renumbered 7/1/11; renumbered & amended 1/1/18; renumbered 1/1/19; renumbered 7/1/19; renumbered 1/1/20)*

**Jury Rules**

**1.121.13 Prior Jury Service**

A prospective juror who has served on a grand jury, trial jury or was summoned and appeared for jury service in any state or federal court during the 12 months preceding the appearance date on the summons, or any longer period as the court determines appropriate, will be excused from service on request.

*(Effective 1/1/99; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

**1.131.14 Failure to Appear for Jury Duty when Summoned**

Any prospective trial juror who fails to appear or fails to contact the jury commissioner to be excused from attendance when they have been summoned for service may be compelled to appear at an order to show cause hearing to explain to the judge why the juror disregarded the

jury summons. Without good cause or a willingness to serve, the court may find the prospective juror in contempt of court, subject to fine, incarceration, or both, as otherwise provided by law.

(Effective 1/1/99; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)

## **Court Reporter Rules**

### **1.141.15 Provision of Court Reporters**

An official court reporter will be provided for the following court proceedings:

- a. Felony criminal proceedings (including preliminary hearings, other pretrial motions, and court or jury trials);
- b. Juvenile proceedings;
- c. Family Law proceedings;
- d. Any court proceeding when ordered by the court; and
- e. Any other proceeding when a party requests a court reporter in accordance with local rule 1.161.15.

(Effective 1/1/99; amended 7/1/09; amended 1/1/12; amended 7/1/12; amended 1/1/13; renumbered & amended 1/1/19; amended & renumbered 7/1/19; renumbered & amended 1/1/20)

### **1.151.16 Requests for Court Reporter**

- a. If a party in a civil or probate case wants to request the presence of an official court reporter, the party must file a written request not less than 48 hours before a hearing date. The written request for court reporter may be made on [Request for a Court Reporter \(Form #MMC-140-local\)](#) and will include the \$30 fee covering the first hour of official court reporter services. Should the proceedings last longer than one hour, the requesting party will be responsible for a fee equal to the actual cost of providing that service for each one-half day on the first and each succeeding hearing day those services are provided.
- b. The court will notify the requesting party as soon as possible if an official court reporter is not available on the hearing date. Any party may thereafter arrange for a certified shorthand reporter to serve as an official pro tem reporter, at that party's expense, pursuant to California Rules of Court rule 2.956(c). If an official court reporter or pro tem reporter is not available on the hearing date, the requesting party may request a continuance of the hearing or waive the request for court reporter.

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- c. In accordance with Government Code § 68630(a) and California Rules of Court rule 3.55, the court will provide to a fee waiver litigant an official court reporter or a certified shorthand reporter serving as an official pro tem reporter in civil or probate matters if a request is made pursuant to section (a) of this local rule.

*(Effective 1/1/99; renumbered 1/1/07; amended 1/1/07; amended 7/1/08; amended 1/1/07; amended 1/1/09; amended 1/1/12; amended 7/1/12; renumbered & amended 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

### **1.161.17 Use of Electronic Recording**

Pursuant to Government Code § 69957, electronic recording may be used in the following types of proceedings when an official reporter is unavailable: infractions, misdemeanors, limited jurisdiction civil matters, and small claims.

*(Effective 1/1/13; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

### **1.171.18 Electronic Filing of Court Ordered Transcripts**

Staff reporters and pro tem court reporters will file transcripts electronically with the court. Electronic transcripts must conform to the following specifications:

1. Electronic transcripts must have a file name in the following uniform format:  
[year, month, day of proceeding; case name; type of proceeding]  
Examples: Criminal case: 20170817 People v Smith Prelim  
Civil case: 20170817 Smith v Jones Jury Trial  
Juvenile or other confidential case: 20170817 In re RK Detention
2. Notification will be placed in the court file indicating the title of the transcript.
3. Court reporters will initiate email notifications to all parties and the court when transcripts are uploaded to the data repository.
4. The date and time a transcript is uploaded will constitute the filing date of the transcript. If uploaded before 4:00 p.m. on a court business day, that will be the file date. If uploaded after 4:00 p.m., the next court business day will be the file date.

*(Effective 1/1/18; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

## **Interpreter Rules**

### **1.181.19 List of Approved Interpreters**

The Judicial Counsel of California maintains a list of court approved interpreters and their specific languages for public examination. An interpreter will be approved for inclusion upon

the list only after the interpreter's competency has been satisfactorily demonstrated by examination or other means as required by the Judicial Council of California.

(Effective 1/1/99; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)

**1.191.20 Requests for Interpreters: Civil, Probate, and Family Matters**

Parties who require an interpreter ~~must shall~~ submit a written request, including the ~~particular language for which interpretation is needed~~, to the ~~clerk's office court interpreter coordinator in Room 303 at the Ukiah courthouse~~ at least 10 court days before the date of the trial or hearing for which the interpreter is required. The court ~~will shall~~ diligently attempt to secure a qualified an interpreter pursuant to the priorities and provisions set forth in Evidence Code § 756~~after all mandatory court matters are covered.~~

(Effective 1/1/99; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered & amended 1/1/20)

**1.201.21 Request for Interpreters: Criminal and Juvenile Matters**

- a. **Notice to the Court:** The court ~~must shall~~ be notified at the earliest opportunity, but ~~at least no fewer than~~ 10 court days prior to any proceeding, hearing or trial that requires the services of an interpreter. Said notice ~~may can~~ be accomplished by oral ~~request announcement~~ in court when the case is first being heard on the record and the need for an interpreter is first ascertained. Notice ~~may can~~ also be accomplished in writing and directed to the ~~clerk's office interpreter coordinator of the court~~ with a copy to the case file. All written notices must include the name of the case, the case number, the nature of the proceeding, the type of interpreter services required, a time estimate for the proceeding, and whether the service is for:

1. Defendant or witness in a criminal matter
2. Parent, child or witness in a juvenile matter
3. Other parties or persons with substantial interest in a case (e.g. guardians, de facto parents, victims, etc.)

- b. **Responsibility for Notice:** The party need~~ing~~ the services of an interpreter is responsible for providing to provide the notice to the court.

(Effective 1/1/99; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered & amended 1/1/20)

## **Attorney Fees**

### **1.211.22 Court Appointed Attorneys: Standards of Experience, Allowable Fees, and Expenses**

The following sets forth the process by which attorneys will submit billings pertaining the court appointments and fees allowable for such appointments.

#### **a. Standard Billing Process**

1. The court will allow attorney's fees and costs for services rendered and expenditures made by counsel properly appointed while such matters are pending before the court. Such appointment orders must be made before an attorney may begin billing for services and other costs pertaining to the appointment.
2. Application for the payment of such fees and costs in misdemeanor or delinquency proceedings will ordinarily be made at the time of the final court disposition of the proceeding in which court appointed counsel served, but in no event will such application be presented more than 30 days thereafter.
3. Pretrial interim application for fees may be made in cases involving the death penalty or life without the possibility of parole, or in exceptionally complex or lengthy cases upon request by appointed counsel. No pretrial interim authorization for fees will exceed the sum of \$3,000 per month, plus expenses, for lead counsel and \$1,500 per month, plus expenses, for associate counsel.
4. If an attorney believes that the case is of such a special or unusual nature that it is not possible to render services in accordance with the maximum fee schedule, he/she must file a declaration explaining why an exception to the maximum fee is sought. Upon review of such written declaration, a reasonable fee in excess of the limits set forth in this schedule may be established by the judge presiding in the case.
5. Except as set forth in paragraph (f) below, attorneys will not receive extra compensation for normal operating expenses such as mileage, photocopies, and long distance phone calls; extra compensation will be allowed for such expenses as fees for investigators and expert witnesses in accordance with these rules.
6. In the event that an appointed attorney must appear in the court of another county on a case transferred from this court, the attorney will be entitled to reasonable travel and lodging expenses necessarily incurred in connection with his/her appearance in the court of the other county. The attorney will be reimbursed for necessary mileage and lodging at the rate allowed by the

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Judicial Council of California. In no event will the attorney seek payment of fees for travel time.

7. Application for fees and costs must be completed on [Claim Form \(MMC-131-local\)](#) itemizing the legal services rendered, the amount of time for such services, and any expenses incurred. Application for fees and costs must be submitted to the court for subsequent approval by the judge presiding in the case.
8. Any requests for reimbursement of travel or lodging must be made by written declaration. All requests for such reimbursement must include itemized expenses with all applicable receipts attached. Travel expenses must be pre-approved by the judge presiding in the case.

b. **Criminal and Juvenile (Welfare & Institutions § 602) Attorney**

**Appointments:** Once approved by the judge presiding in the case, indigent defense costs in all criminal and juvenile (W&I § 602) matters are submitted to the County of Mendocino for payment, including all costs pertaining to the Office of the Public Defender and the Office of the Alternate Defender.

1. **Criminal and Juvenile Case Classifications**

- a. **Class 1:** All homicides, whether capital or non-capital, and all offenses having a maximum sentence of life without possibility of parole, or in the discretion of the court, an aggregate state prison sentence of 30 years or more.
- b. **Class 2:** All crimes for which the upper term of punishment is five (5) years or more, but less than Class 1.
- c. **Class 3:** All other felonies, misdemeanors, and all juvenile matters.

2. **Minimum Experience Requirements for Attorneys Appointed in Criminal and Juvenile (W&I § 602) Matters**

- a. **Class 1:** Certified criminal law specialist or equivalent.
- b. **Class 2:** Five (5) years' experience as an attorney, with a substantial part of such experience in criminal law.
- c. **Class 3:** An attorney may be eligible for this class by providing oral or written proof of relevant experience and upon authorization of the judge presiding in the case.

3. **Fee Schedule:** All criminal and juvenile (W&I § 602) attorneys must agree to handle all cases to which they are appointed at the rates established by the court. The court will periodically review and adjust rates as necessary.

- a. **Class 1:** The rate shall be \$80.00 per hour, unless otherwise determined on a case by case basis.



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- b. **Class 2:** The rate shall be \$75.00 per hour.
- c. **Class 3:** The rate shall be \$65.00 per hour.
- c. **Civil, Family Law, and Probate Attorney Appointments:** Costs pertaining to appointment of attorneys in civil, family law (typically minor's counsel pursuant to Family Code § 3150), and probate matters are submitted to the court for payment.

An attorney may be eligible for appointment in one of these case types by providing ~~oral or~~ written proof of ~~relevant~~ experience required by California Rules of Court rule 5.242 and upon authorization by the judge presiding in the case. The fee for such appointments shall be \$65.00 per hour.

- d. **Guardianship and Conservatorship Proceedings.** Attorneys for guardians or conservators are compensated according to the work actually performed. The size of the estate corpus and the responsibility assumed by the attorney are only two of the factors considered in arriving at the value of the services. Application for the attorney's fees must be accompanied by a complete statement of the facts upon which the application is based, a detailed statement of the amount of time devoted to each component of the services, and the specific amount requested for each service.
- e. **Order for Payment.** Before any order for the payment of fees is made by the court, the attorney must provide proof of service that all parties entitled to notice have been given notice of the fee application.

*(Effective 1/1/99; amended 7/1/99; amended 1/1/09; amended 1/1/10; renumbered & amended 1/1/19; renumbered & amended 7/1/19; renumbered & amended 1/1/20)*

**1.221.23 Attorney's Fees and Representative's Fees for Extraordinary Services in Probate Proceedings or in any Probate Matter Where a Statutory Fee is not Established**

- a. The court will take into consideration the statutory fee and whether it constitutes adequate compensation for all of the services rendered by the attorney or representative.
- b. Notwithstanding the principle stated in paragraph (a), extraordinary compensation will be paid when requested for the following services:
  - 1. Preparation of fiduciary tax returns and resolution of problems arising from the audit of such returns. Payments made to accountants or to other tax preparers for such services and charged to the estate must be set forth in the request for extraordinary compensation.
  - 2. Sales of property without a broker.

- c. Subject to the principle stated in paragraph (a), compensation for extraordinary services will be considered in the following situations:
  - 1. Litigation on behalf of the estate;
  - 2. Operating or selling a business;
  - 3. Sales of estate property;
  - 4. Performance of any act resulting in extraordinary benefit to the estate or requiring an extraordinary expenditure of time.
- d. Application for compensation of extraordinary services will not be considered unless the title of the petition and the notice of hearing include a reference to the request. The prayer must set forth the specific amount of the request.
- e. The application for compensation of extraordinary services or any other services for which a fee is requested other than ordinary services must specify:
  - 1. Date services rendered;
  - 2. Detailed description of services rendered;
  - 3. Hours spent on ordinary services;
  - 4. Hours spent on extraordinary services;
  - 5. Hourly rate; and
  - 6. Total amount requested

| *(Effective 1/1/99; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

## **Guardian and Conservator Fees**

### **1.231.24 Fees and Commission Fixed by Court Prior to Payment**

There is no authority for the payment of any fees or commissions in decedent's estates, guardianships or conservatorships in advance of a court order authorizing the same. Representatives will be surcharged interest to the date of any order authorizing such payment unless in the case of a decedent's estate the written consent of the residuary beneficiaries is filed with the court and the amounts paid are reasonable and proper.

| *(Effective 1/1/99; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

**1.241.25** **Guardians and Conservators Fees**

Factors to be considered in determining the compensation allowable to guardians and conservators are:

- a. The gross income and assets of the estate;
- b. The success or failure of administration of the guardian or conservator;
- c. Any unusual skill or experience which the guardian or conservator in question may have brought to the work;
- d. The fidelity or disloyalty displayed by the guardian or conservator;
- e. The amount of risk and responsibility assumed by the guardian or conservator in carrying out such duties;
- f. The time expended by the guardian or conservator in carrying out such duties;
- g. The custom in the community as to charges exacted by trust companies and banks;
- h. The character of the work done in the course of administration whether routine or involving skill and judgment;
- i. Any estimate which the guardian or conservator has given of the value of the guardian or conservator's own services (*Estate of Nazro*, (1971) 15 Cal.App.3<sup>rd</sup>218).

(Effective 1/1/99; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)

**Investigation and Expert Fees**

**1.251.26** **Investigation Fees and Expenses**

- a. **Ancillary Funding Requests.** All Ancillary funding requests for investigation fees and expenses must be made in writing by the assigned counsel and submitted to the court for review and authorization by the presiding judge or his/her designee.
- b. **Order of Appointment.** Orders appointing an investigator must provide a blank space for the judge to insert a dollar limit for the services to be provided.
- c. **Maximum Amount of Fees in Initial Application**
  1. **Cases Other Than Capital or Life Sentence Cases:** The initial application must not exceed the sum of \$3,000. Additional applications

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may be made upon a showing that further investigation is necessary in an amount not to exceed \$1,500 per application.

2. **Capital and Life Sentence Cases:** The initial application for capital and life sentence cases must not exceed \$5,000. Additional application may be made upon a showing that further investigation is necessary in an amount not to exceed \$2,500 per application.
3. **All Cases:** In no event will the court grant fees or expenses not reasonably justified by the nature of the case as supported by written declaration by the assigned counsel. The declaration must specify the nature and purpose of the proposed investigation and must contain an estimate of the fees and expenses involved. The court will consider payment for reasonable time spent in writing reports.
- d. **Further Authorization of Fees.** If the authorization is reached, further judicial authorization must be obtained before additional billings may be submitted. Requests for additional investigative time must be accompanied by a detailed statement of the work performed up to that time. This detailed statement will not be treated as a request for payment unless the court has granted authorization for such billings.
- e. **License.** Upon request, investigators will provide the court with a copy of a valid investigator's license.
- f. **Hourly Rates.** Investigators fee will be paid at \$40.00 per hour.

Travel time shall not be compensated unless the travel exceeds 50 miles round trip. In such cases, travel time will be billed at the rate of \$25.00 per hour.

Reimbursement for copies of discovery and motions is not permitted.

The court will not approve payment for excessive time spent in conference with attorneys, experts or the defendant. The billing must set forth a detailed explanation of the need for such conference time before the court will consider payment.

Typically, the court will not approve payment for time spent in locating a party to a case. If an investigator needs to locate a party, the investigator must explain the reason for this expense before the court will consider payment.

| (Effective 7/1/19; *renumbered 1/1/20*)

**1.261.27 Fees in Guardianship or Conservatorship Investigations**

Guardianship and conservatorship investigator fees will be reimbursed as follows, subject to review by the court:

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- a. Conservatorship investigation or review: \$400
- b. Guardianship investigations: \$500
- c. Guardianship reviews: \$200

(Effective 7/1/16; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)

**1.271.28 Non-Psychiatric Expert Fees and Expenses**

- a. **Ancillary Funding Requests.** All ancillary funding requests for investigation fees and expenses must be made in writing by the assigned counsel and submitted to the court for review and authorization by the presiding judge or his/her designee.
- b. **Amount of Fees:** In no event will the court grant fees or expenses not reasonably justified by the nature of the case as supported by the written declaration. The written declaration must specify:
  - 1. The nature, purpose, and materiality of the proposed expert services;
  - 2. The name of the expert to be retained;
  - 3. A brief statement of the experts qualifications;
  - 4. The proposed expert's hourly fees for court work and courtroom testimony;
  - 5. An estimate of the fees and expenses involved; and
  - 6. A detailed explanation of any unusual or extraordinary requests.
- c. **Order for Fees and Expenses:** The order for expert fees and expenses must be on a form approved by this court.
- d. **Maximum Rates for Expert Services and Testimony:** Claims for expert services authorized pursuant to this rule will not exceed the amounts approved by the court.

(Effective 1/1/99; renumbered 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)

**Claim for Payment**

**1.281.29 Claim for Payment**

- a. **Submission of Claim for Payment.** Claimants, including attorneys, investigators, experts, expert witnesses, and others must submit billings when

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work on the case has been concluded, unless the time worked spans more than one (1) fiscal year. In such instances, claimants must submit billings for the work performed in the first fiscal year no later than July 15<sup>th</sup>. In all other instances, billings must be presented within 30 days of the conclusion of the case. In cases involving many hours of work, the court may authorize, in advance, interim billings. When interim billings are authorized, each bill must identify the period of time that it covers and be identified by a progress payment number (e.g. “Interim Billing No. 3”).

- b. **Request for Payment.** The request for claimant fees and expenses must be in the form approved by this court. All claims for payment must include in the caption a cumulative total of all payments to date (if any). Subsequent claims must not include any expenses incurred prior to the date the last claim was submitted.

Claims for fees and expenses must be made on [Claim Form \(Form #MMC-131-local\)](#) and include a copy of the court order appointing the claimant and awarding fees and a detailed accounting of all claimed fees and expenses. Claim forms and attachments must be submitted to the Accounting Division, which will submit the claim to a judge to review and authorize the claim. Once approved, the claim will be processed by the court or the County of Mendocino.

- c. **Claims Requirements.** All claims must contain a detailed statement of services actually rendered. Time must be billed in increments of 1/10 hour. Each claim must clearly identify the work performed and the name of the person who performed it.

The following types of services must be separately identified:

- Travel time;
- Time spent interviewing witnesses, defendants or parties;
- Time spent in conference with attorneys, other experts or defendants;
- Time spent reviewing reports or other documents;
- Time spent in measuring, diagramming or photographing scenes, locations, persons, and objects;
- Time spent researching public records or in obtaining documents or other information.

Travel time will not be compensated unless the travel exceeds 50 miles round trip. Mileage reimbursement will be based on the current mileage rate used by the Judicial Council of California. Mileage claims must be supported by Map Quest or other similar mapping program documentation.

- d. **Requests for Extraordinary Costs.** In no event will the court grant extraordinary fees or expenses not reasonably justified by the nature of the case, as supported by written declaration. The declaration must specify the nature and purpose of the proposed services and contain an estimate of the fees and expenses involved. Unusual or extraordinary requests must be justified in detail.

The court will NOT authorize payment without specific prior approval for:

- Clerical work
  - Courtroom observation
  - Travel costs (e.g. meals, lodging, airfare, travel time)
  - Copies of discovery or motions
  - Other unusual services
- e. **Claims Confidentiality.** Claimant billings will be treated as confidential in all criminal and juvenile cases.
- f. **Disclosure of Other Compensation for Services on Court Appointed Cases.** A claimant must disclose fully, in writing, any payment or other compensation received from any source other than the court for services rendered in connection with any case in which the claimant has been appointed.

(Effective 7/1/19; renumbered & amended 1/1/20)

## **Media**

### **1.291.30 Media Coverage**

No filming, photography or electronic recording is permitted in the courthouses unless expressly authorized by the court or consistent with California Rules of Court rule 1.150, and these local rules.

(Effective 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)

### **1.301.31 Requests for Photography, Videotaping or Audio Recording**

Requests for any type of video, still photography or audio coverage, including pool cameras, in a courtroom for a specific court proceeding must be made in compliance with California Rules of Court, rule 1.150(e)(1), and submitted at least five (5) court days in advance of the proceeding to be covered to the judicial officer assigned to hear the case on Judicial Council's [Media Request to Photograph, Record, or Broadcast \(Form MC-500\)](#), accompanied by the [Order on Media Request to Permit Coverage \(Form MC-510\)](#).

(Effective 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)

### **1.311.32 Use of Handheld Electronic Devices, Photography, Videotaping and Audio Recording Devices**

The following limitations apply to the use of handheld electronic devices, photography, videotaping or audio recording, unless an exception is expressly permitted by written judicial order or as permitted by local rule 1.351-34:

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- a. Videotaping, photographing or electronic recording by the media and/or the general public is not permitted in any part of the courthouse, including but not limited to, lobby areas, halls, stairs, elevators, clerks' windows or meeting rooms.
- b. Video equipment, photography equipment, and electronic recording devices must be turned off while transporting them in any area of the court.
- c. All audible electronic devices must be turned off when they are in the courtrooms.
- d. Any photography of the interior of a courtroom through the glass door windows or from the doorway of a courtroom is prohibited, even if an exception is granted for courthouse areas outside the courtroom.
- e. When audio and/or video recording is not permitted by a judicial officer, electronic recording devices may be taken into the courtroom only if they are turned off and remain inside an enclosed case.
- f. Attorneys, parties, experts and witnesses involved in a proceeding may use their electronic devices to perform court related functions (e.g. legal research) while in the courtroom.

| *(Effective 1/1/19; renumbered & amended 7/1/19; renumbered & amended 1/1/20)*

**1.321.33 Prohibited Coverage**

In accordance with California Rule of Court rule 1.150(e)(6) and these local rule, the media and general public are prohibited from audio or video recording and photography of any of the following:

- a. A proceeding closed to the public (i.e. juvenile cases);
- b. Jurors or spectators;
- c. Jury selection;
- d. Conferences between an attorney and client/witness, interpreter and party/witness;
- e. Conferences between attorneys;
- f. Conferences between counsel and a judicial officer at the bench ("sidebars"); or
- g. Proceedings held in chambers.

| *(Effective 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*



**1.331.34 Areas in Court Facilities Where Media Activities  
are Authorized**

Photos, news conferences, and on-camera statements to members of the media or the general public are allowed only in areas specified for that purpose. Requests for media photos and interviews must be made to the presiding judge.

The media must not impede access to the courthouse for court staff, visitors, and other members of the public.

*(Effective 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

**1.341.35 Ceremonial Events**

Unless the court orders otherwise, these rules do not prohibit photography or recording of ceremonial events held by the court, a governmental agency or bar association; mock trial competitions; weddings; adoptions; or other events held in a courtroom when court is not in session.

*(Effective 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

**1.351.36 Body Worn Cameras**

Law enforcement officers with body worn cameras will not activate the recording functions of the camera in the courthouse unless they are involved in a law enforcement incident that may result in an arrest.

*(Effective 1/1/19; renumbered & amended 7/1/19; renumbered 1/1/20)*

**Court Security**

**1.37 Court Security**

- a. The courthouses in Ukiah and Fort Bragg require perimeter screening before entering either facility. Upon entering these facilities, all members of the public, attorneys, court and county staff, and off-duty peace officers will be subject to search using a walk through metal detector, x-ray screening of all non-food items, and visual inspection of food containers. At the direction of court security personnel, persons entering the facility may be required to submit to additional metal detection scanning with a handheld device.
- b. Court employee work areas are, at all times, restricted to court personnel and judicial officers. County employees who may be delivering mail or performing other services, and vendors performing services authorized by the court will be permitted into these restricted areas.

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Court or county employees whose duty stations are located in the courthouse facility must adhere to these court security rules and may not possess weapons or dangerous items or materials in any court facility except as specified below.

- c. On duty peace officers, including probation officers, either in uniform or, if not in uniform, presenting picture identification to security staff, who are attending law enforcement business at the courthouse facility, may be admitted without being searched. Security personnel may verify the identity of any officer by requesting proper identification. If the identity of an officer cannot be verified through identification carried by the officer or through reasonable efforts by security personnel, this exemption will not apply.

Area tribal police officers may enter the courthouse carrying their duty weapons if they are in uniform, on duty, and are able to present a valid police department identification card.

Peace officers, including probation officers and tribal police officers, appearing on personal matters may not bring weapons into any court facility pursuant to Penal Code § 171(b)(2)(B).

- d. Weapons or dangerous items or materials may not be brought into a courthouse facility, unless in the possession of an on duty peace officer as described in (c) above. In addition, weapons or dangerous materials will be authorized to enter the courthouse when they are to be used as evidence in court, are properly secured to prevent accidental discharge or release, and are being delivered to court by someone authorized by state law to do so.

Weapons, dangerous items or materials include:

1. items prohibited by Penal Code § 171b, including firearms, knives, tear gas weapons, laser or stun guns, instruments that expel metallic projectiles, spot markers, and paint guns;
2. items prohibited by Penal Code § 1202, including undetectable and disguised firearms, metal knuckles, hand grenades, clubs, and blackjacks;
3. any explosive or incendiary device, or any toxic, radioactive or flammable material;
4. any item that could be used to stab, cut or to commit mayhem, such as pointed scissors, letter openers, pocket knives, glass bottles, screwdrivers, awls, saw blades, and stakes;
5. any item which could be used as a club, such as a hammer.

The following items are excluded from the definition of weapons or dangerous items or materials;

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1. food, beverages, and non-sharp utensils carried into a court facility by court or county employees assigned to work within the courthouse facility, or by jurors displaying valid juror identification;
  2. tools and flammable materials required for authorized facility maintenance or construction that are in approved containers and are being transported by someone authorized to do so within the facility.
- e. It will be a violation of this local rule, punishable through contempt proceedings, to tamper with security equipment or otherwise attempt to bypass the security screening.

(Effective 1/1/20)

## **Chapter 2: Civil Court Rules**

### **Civil Case Management**

#### **2.1 Case Management**

Case Management Conferences will be conducted for Unlimited Civil matters in accordance with California Rules of Court rules 3.700 – 3.763. The court does not conduct Case Management Conferences for Limited Civil matters.

*(Effective 1/1/13; renumbered 1/1/19)*

#### **2.2 Continuances**

- a. By stipulation and upon payment of the applicable fees the parties may continue a civil hearing or trial to a date approved by the clerk one (1) time only without the approval of the court.
- b. Subsequent continuances may be obtained by written stipulation of the parties with approval of the court for good cause shown. The parties must submit a fully executed stipulation which demonstrates good cause for the continuance and a proposed order in advance of the scheduled hearing/trial date.
- c. Any party or attorney who announces in open court that a law and motion hearing has been continued by stipulation must thereafter file and serve written notice on all parties of the continued hearing date.
- d. Absent stipulation of the parties, any party seeking a continuance of any motion or trial must do so by noticed motion, *ex parte* application, or oral motion in open court with good cause shown. The court will not entertain motions to continue which are made by letter, telephone, or email communication to the court or the court clerk.

*(Effective 1/1/99; amended 1/1/03; amended 7/1/08; amended 7/1/12; renumbered & amended 1/1/13; renumbered 1/1/19)*

#### **2.3 The Pretrial Conference**

- a. A pretrial conference may be held in any long cause matter on the civil active list, whether a jury trial or court trial. The pretrial conference must be attended by counsel who actually will try the case and by all unrepresented parties.
- b. **Pretrial Statement Required**
  1. As directed by the order setting the action for pretrial conference, counsel must file either a Joint Pretrial Statement or separate Pretrial Statement not

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less than five (5) court days before the date of the pretrial conference.  
Pretrial statements will be limited to 10 pages.

2. Not less than 15 days before the date of the pretrial conference, counsel and all unrepresented parties must meet and confer in good faith in order to prepare the pretrial statement, or statements, to narrow down the legal and factual issues which the court will have to try, to arrive at stipulations, and to attempt settlement of the action.

3. **Form and Contents of Pretrial Statement**

The pretrial statement must state the name of the party or parties on whose behalf it is presented and set forth the nature of the action and the following matters under the following captions and in the following order.

- a. **Jurisdiction and Venue:** A statement as to whether any party disputes jurisdiction or venue and, if so, the legal and factual issues presented.
- b. **Substance of the Action:** A brief description of the substance of the claims and defenses presented and of the issues to be decided. In jury cases, this description must be couched in impartial and non-argumentative languages so that it will be suitable for reading to the jury at the outset of the trial.
- c. **Undisputed Facts:** A plain, concise statement of the facts that is undisputed. Counsel must make a good faith effort to stipulate to all facts not reasonably disputable for incorporation into the trial record without the necessity of supporting testimony and exhibits.
- d. **Disputed Factual Issues:** A plain, concise statement of all disputed factual issues.
- e. **Disputed Evidentiary Issues:** A plain, concise summary of any reasonably anticipated disputes concerning admissibility of evidence.
- f. **Relief Sought:** A detailed statement of the relief claimed, including a particularized itemization of any monetary damage sought.
- g. **Abandoned Issues:** A statement of all issues raised by the pleadings that have been abandoned including, for example, causes of action and affirmative defenses.
- h. **Previous Motions:** A list of all previous motions made in the action or proceeding and the disposition of each.

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- i. **Witnesses:** A list of all witnesses likely to be called at trial, whether offered in person or by deposition, except for impeachment or rebuttal, together with a brief statement following each name, describing the substance of the testimony to be given.
- j. **Exhibits, Schedules, and Summaries:** A list of all documents and other items to be offered as exhibits at the trial, except for impeachment or rebuttal, with a brief statement following each describing its substance and purpose and the identity of the sponsoring witness. Only exhibits so listed will be permitted to be offered at trial except as may be otherwise provided in the pretrial order.
- k. **Discovery Documents:** A list of all answers to interrogatories and responses to requests for admission that the party expects to offer at trial.
- l. **Further Discovery or Motions:** Any requests for further discovery or pretrial motions.
- m. **Stipulations:** Any stipulations requested or offered for pretrial or trial purposes.
- n. **Amendments and Dismissals:** Any requested amendments to pleadings, dismissals, additions or substitutions of parties, or dispositions as to defaulting parties.
- o. **Settlement Discussion.** A statement summarizing the status of settlement negotiations and indicating whether further negotiations or settlement conferences are likely to be productive.
- p. **Agreed Statement:** A statement whether presentation of the action or proceeding in whole or in part upon agreed statement of facts is feasible and desired.
- q. **Bifurcation, Separate Trial of Issues:** A statement whether bifurcation or a separate trial of specific issues is feasible and desired.
- r. **Appointment and Limitation of Experts:** A statement whether appointment by the court of an impartial expert witness and whether limitation of the number of expert witnesses is feasible and desired.
- s. **Estimate of Trial Time:** An estimate of the number of court days expected to be required for the presentation of each party's case. Counsel are expected to make a good faith effort to reduce the time required for trial by all means reasonable feasible, including

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stipulation, agreed statement of facts, expedited means of presenting testimony and exhibits and the avoidance of cumulative proof.

- t. **Attorney's Fees:** A statement whether attorney's fees are sought, the legal and factual basis therefore, and the time and manner in which they are to be ascertained.
- u. **Miscellaneous:** Any other appropriate comments, suggestions, or information that might aid in the efficient or economical determination of the action.

*(Effective 1/1/13; renumbered 1/1/19)*

### 2.4 Motions in Limine

Unless otherwise ordered, each party must file and serve all motions in limine on significant disputed issues of law and foreseeable procedural or evidentiary issues no less than five (5) court days before the date of the pretrial conference. Written opposition to a motion in limine, if any, must be filed and served at least one (1) court day prior to the pretrial conference. Counsel and self-represented litigants must be prepared to argue motions in limine at the pretrial conference.

*(Effective 1/1/13; renumbered 1/1/19; amended 1/1/20)*

### 2.5 Additional Requirements for Pretrial Conference Prior to Civil Jury Trial

At least five (5) court days prior to the pretrial conference, each party must lodge with the court and serve on opposing parties copies of each of the following;

- a. Proposed voir dire questions;
- b. Proposed jury instructions which comply with California Rules of Court rules 2.1055 and 2.1058; and
- c. Proposed general or special verdict forms.

*(Effective 1/1/13; renumbered 1/1/19; amended 7/1/19)*

## **Civil Law and Motion**

### **2.6 Parties must Meet and Confer prior to Filing Motion**

Prior to filing any motion, the moving party must make a reasonable, good faith attempt to resolve the matter. A declaration setting forth facts supporting the party's attempt to meet and confer or explaining why such an attempt would not be reasonable must be filed with the motion. If resolution is not possible, the moving party must attempt to coordinate a hearing date with the opposing party or parties.

*(Effective 1/1/99; amended 7/1/08; renumbered & amended 1/1/13; renumbered 1/1/19)*

### **2.7 Ex Parte Applications and Orders**

- a. **Time of Ex Parte Hearing.** To obtain a date and time for an *ex parte* hearing, call the court clerk's office.
- b. **Filing of Ex Parte Applications.** All *ex parte* applications for temporary relief, orders to show cause, orders shortening or extending time, or other kinds of orders sought in a civil matter shall be filed with the court clerk no later than 11:00 a.m. the day of the hearing.
- c. **Notice of Ex Parte Applications and Hearing**
  1. Prior to any civil harassment, work place violence, elder abuse, school violence or gun violence restraining order hearing on any *ex parte* application for a court order, a [Declaration re: Notice upon Ex Parte Application for Orders \(Form #MMC-121-local\)](#), must be completed and filed with the court indicating that the opposing party has been noticed of the pending hearing for requested *ex parte* orders.
  2. Regardless of how notice to the opposing party was given, pursuant to California Rules of Court rule 3.1206, copies of the *ex parte* application filed with the court, excluding those for a restraining order, must be served on the opposing party as soon as is reasonably practicable, but in no event later than the commencement of the hearing on the *ex parte* application.
- d. **Ex Parte Request for Dismissal of Restraining Order.** At any time before the expiration of a civil harassment, work place violence, elder abuse, school violence or gun violence restraining order, a party may request to have the restraining order dismissed by filing the appropriate Judicial Council form.
- e. **Party Requesting a Civil Harassment, Work Place Violence, Elder Abuse, School Violence or Gun Violence Restraining Order Must Appear at the Restraining Order Hearings.**



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1. The person requesting a civil harassment, work place violence, elder abuse, school violence or gun violence restraining order pursuant to Code of Civil Procedure section 527 *et. seq.* must appear in person, via CourtCall, or through counsel of record at the following hearings:
  - a. *Ex parte* request for temporary restraining order (TRO); and
  - b. Hearing on the request for the civil harassment, workplace violence, elder abuse, school violence or gun violence restraining order.
2. The failure of the party requesting a civil harassment, workplace violence, or elder abuse restraining order to appear at the *ex parte* hearing will result in the matter being dropped from the calendar and the request for the civil harassment, workplace violence, elder abuse, school violence or gun violence restraining order being dismissed without prejudice.
3. The failure of the party requesting a civil harassment, workplace violence, elder abuse, school violence or gun violence restraining order to appear at the hearing on the request for a civil harassment, workplace violence, elder abuse, school violence or gun violence restraining order without notice to the court or the opposing party will result in the TRO expiring, the matter being dropped from the calendar, and the request for the civil harassment, workplace violence, elder abuse, school violence or gun violence restraining order being dismissed without prejudice.

*(Reinstated & amended 1/1/11; amended 1/1/12; renumbered 1/1/13; amended 7/1/17; renumbered & amended 1/1/19)*

### 2.8 Tentative Rulings

- a. **Tentative Rulings available by Telephone and on the Court's Website.**  
Tentative rulings on civil and probate matters set on the law and motion calendar *which is heard each Friday at 9:30 a.m.* will be issued no later than 3:00 p.m. on the court day before the scheduled hearing using the procedures set forth in California Rules of Court rule 3.1308(a)(1). Tentative rulings will be available by telephone (707) 468-2007, Option 1 and on the court's website.
- b. **Oral Argument**
  1. The court may indicate in its tentative ruling that oral argument is requested and may further specify the issues on which the court desires further argument.
  2. If the court has not requested oral argument, oral argument will be permitted only if a party notifies all other parties and the court by 4:00 p.m. on the court day before the hearing of the party's intent to appear. Pursuant to California Rules of Court rule 3.1308(a)(2), a party must

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notify all other parties by telephone or in person. The party requesting oral argument may notify the court by telephone or email to the clerk in the civil department.

- c. The tentative ruling will become the ruling of the court if the court has not requested oral argument in its tentative ruling and notice of intent to appear has not been given. The prevailing party must thereafter prepare and submit a proposed order as required by California Rules of Court rule 3.1312(a) unless a proposed order consistent with the tentative decision has previously been lodged with the court.
- d. This local rule does not require any judge to issue tentative rulings.

*(Effective 7/1/12; renumbered 1/1/13; amended 1/1/13; renumbered 1/1/19)*

### **2.9 Reporting of Law and Motion Matters**

This court does not regularly provide for reporting or electronic recording of hearings in civil or probate matters. Any party who wishes to obtain an official verbatim transcript of a law and motion hearing must follow the procedure set forth in local rule ~~1.164-15~~ (*California Rules of Court rule 3.1310*).

*(Effective 7/1/12; renumbered 1/1/13; renumbered & amended 1/1/19; amended 7/1/19; amended 1/1/20)*

### **2.10 Reliance Upon Authorities Outside of California Official Reports**

If counsel relies on authority other than that currently printed in the official California Reports, a legible, complete copy of such authority must be submitted to the court and other counsel. This rule applies to federal cases from California jurisdictions, Daily Journal D.A.R. citations, Administrative Code citations, Attorney General opinions, local ordinances, etc. as well as citations to other state and federal cases. In all other respects, California Rules of Court rule 3.1113 will apply.

*(Effective 1/1/99; renumbered & amended 1/1/07; amended 7/1/13; renumbered 7/1/13; renumbered 1/1/19)*

### **2.11 Motions to Compel Entry of Judgment**

Motions to compel entry of judgment pursuant to Code of Civil Procedure § 664.6 will be heard in the department of the judge before whom the parties stipulated.

*(Effective 1/1/99; renumbered & amended 7/1/08; renumbered 7/1/13; renumbered 1/1/19)*

## **2.12 Unlawful Detainer – Dismissal**

Pursuant to the Code of Civil Procedure §§ 1161.2 and 1167.1, the court will, without prejudice, dismiss an unlawful detainer matter without notice to parties, if proof of service has not been filed within 60 days of the filing of the matter.

*(Effective 7/1/17; renumbered 1/1/19)*

## **Settlement Conferences**

### **2.13 Duties of Counsel Prior to Mandatory Settlement Conference**

At least five (5) court days before the conference, each party, or counsel for each party, must submit to the court and serve upon all other counsel a detailed Settlement Conference Statement that complies with California Rules of Court rule 3.1380.

In addition to the foregoing:

- a. Each party claiming damages in a personal injury action must bring to the conference all reports and records of any and all examining doctors, and include in the settlement conference statement a list of all special damages claimed and supply corroborating evidence to be available for examination by the settlement conference judge.

In a personal injury action, the special damages for each plaintiff should be up-to-date, listed separately, totaled and categorized as health care (including medical, hospital, ambulance and drugs) and loss of earnings, if any.

Opposing parties must bring with them copies of all reports and records of all examining doctors employed by them or their insurance carrier, if any, who examined the plaintiff to be available for consideration by the settlement conference judge.

- b. All parties will organize, in advance, and bring to the conference such medical reports and records, and any depositions (with relevant pages and lines pre-marked) photographs, books, records, diagrams, maps, bills, contracts, memoranda, and all other documents pertinent to settlement of the case for examination by the settlement conference judge.
- c. All parties will set forth the date, the amount and terms of the highest offer, the lowest demand by each party, and the limits of insurance coverage available to each party defendant or plaintiff.

- d. All parties must ascertain whether there are claims or liens which may affect a settlement, and if so, request in writing the claimants or lienholders or their representatives to attend the settlement conference. A copy of such written request must be brought to the settlement conference.

*(Effective 1/1/99; renumbered & amended 1/1/07; renumbered & amended 7/1/08; amended 1/1/09; amended 1/1/10; renumbered 1/1/19)*

## **2.14 Duties of Party at Conference**

Each party attending a mandatory settlement conference has a duty to be thoroughly familiar with the relevant evidence available to him/her pertaining to all issues and must be prepared to discuss all aspects of the case. In addition, the attorney for each party who has requested a jury trial in a case where the right thereto is not guaranteed by law or in a case in which special verdicts or findings of the jury will be required, must present the form of any special verdict or interrogatories which will be required for the resolution of the case by the jury.

*(Effective 1/1/99; renumbered 7/1/08; renumbered 1/1/19)*

## **~~2.15 Waiver of Rules~~**

~~Waiver of the provision of rules contained in this chapter is disfavored. However, the court may, in its discretion, waive any such provision for good cause shown; provided that absent the extraordinary circumstances, the court will not waive the provisions of subdivision 6.1.~~

~~*(Effective 1/1/99; renumbered & amended 7/1/08; renumbered 1/1/19)*~~

## **~~2.16~~2.15 Telephone Appearance at Mandatory Settlement Conference**

- a. All persons whose consent is required to settle a case, including but not limited to named parties, corporate officer(s) or insurance representatives ("Necessary Parties"), must personally attend the mandatory settlement conference unless excused by the court.
- b. If the residence or usual place of business of a Necessary Party is located more than 150 miles from the location of the mandatory settlement conference, the Necessary Party may submit an ex parte application to appear by telephone. The application must be filed and served on each party and /or attorney of record no less than five (5) court days prior to the mandatory settlement conference.
- c. The court in its discretion, may require the personal attendance of a Necessary Party at the mandatory settlement conference even if travel in excess of 150 miles is required.

*(Effective 1/1/10; renumbered 1/1/19; renumbered 1/1/20)*

## **Civil Trials**

### **2.172.16 Trial Briefs**

Trial briefs on disputed legal issues must be filed and served on or before the date of the pretrial conference.

*(Effective 1/1/13; renumbered 1/1/19; renumbered 1/1/20)*

### **2.182.17 Trial Briefs, Motions, Jury Instructions, and Proposed Special Interrogatories must be exchanged at or prior to Pretrial Conference**

Unless otherwise ordered, all motions in limine, jury voir dire questions, proposed jury instructions, verdict forms, and proposed special interrogatories must be filed and served five (5) court days prior to the pretrial conference pursuant to local rules 2.4 and 2.5. The parties must also exchange a list of exhibits which they expect to offer at trial. Trial briefs must be filed and served on or before the date of the pretrial conference.

*(Effective 1/1/13; renumbered & amended 1/1/19; amended 7/1/19; renumbered 1/1/20)*

### **2.192.18 Exhibits**

- a. **Parties to Meet and Confer re Trial Exhibits:** Prior to the Pretrial Conference, parties must meet and confer about documentary evidence, as well as any deposition excerpts, discovery responses, summaries, charts, or other physical evidence each party may wish to offer at trial. The parties must attempt to resolve such objections as may arise. The parties will bring any unresolved evidentiary issues to the court's attention at the pretrial conference.
- b. **Pre-Marking Exhibits for use at Trial:** Parties are encouraged to pre-mark exhibits for use at trial. The court clerk will be available to pre-mark exhibits at the pretrial conference and before court starts on each day of trial. Please do not ask the clerk to pre-mark exhibits while court is in session.
- c. **Exhibit List:** Each party will provide the clerk with a list of exhibits that the party expects to offer at trial. The list must briefly describe each document in a manner suitable for use by the clerk when preparing the clerk's official exhibit list.
- d. **Copies of Exhibits:** Parties are encouraged to bring extra copies of documentary exhibits for opposing counsel and the court. To assist the court clerk in keeping track of trial exhibits, the parties may stipulate to show witnesses copies in lieu of the marked trial exhibits.
- e. **Trial Binders:** Trial binders which contain multiple exhibits will not be marked with evidence tags. Each exhibit must be removed from a trial binder and separately marked for identification.

- f. **Exhibits Returned Post-Trial:** Unless otherwise ordered, all deposition transcripts, discovery responses, administrative records and exhibits of any type will be returned to the custody of the offering party at the conclusion of trial. Prior to the exhibits being returned, any party may request that the clerk provide a certified copy of any exhibits at the requesting party's expense.

(Effective 1/1/13; renumbered 1/1/19; renumbered 1/1/20)

**2.202.19 Attorney as Witness in Jury Trial**

An attorney testifying on the merits of the case as a witness on behalf of his client will not argue the case to the jury unless by permission of the court.

(Effective 1/1/13; renumbered 1/1/19; renumbered 1/1/20)

**Actions Arising Under the California Environmental Quality Act  
Mandate/Actions Under the Public Resources Code 251000, et seq.  
(CEQA)**

**2.212.20 Where Filed**

Mandamus actions challenging an agency decision under the California Environmental Quality Act (Public Resources Code § 21000 et seq.) must be filed in the civil division of the clerk's office at the courthouse in Ukiah, California.

(Effective 7/1/00; renumbered 1/1/19; renumbered 1/1/20)

**2.222.21 Ordering the Administrative Record**

In accordance with Public Resources Code § 21167.6, within 10 business days after the action is filed, petitioners must personally serve on the appropriate public agency their request for preparation of the administrative record or their notice of election to prepare the record themselves.

(Effective 7/1/00; renumbered 1/1/19; renumbered 1/1/20)

**2.232.22 Mediation**

In accordance with Government Code § 66031, within five (5) days after the deadline for respondent or defendant to file a response to the action, plaintiff or petitioner must prepare and lodge with the civil and probate department a notice form for the court's signature inviting mediation. The clerk will then mail the notice of invitation to the parties.

(Effective 7/1/00; renumbered 1/1/19; renumbered 1/1/20)

**2.242.23 Preparing the Administrative Record**

- a. **Preparation by the Public Agency:** Within 20 calendar days after receipt of a request to prepare the administrative record, the public agency responsible for such preparation must personally serve on petitioners a preliminary notification of the estimated cost of preparation, setting forth the agency's normal costs per page, other reasonable costs, if any, the agency anticipates, and the likely range of pages. This notice must state, to the extent then known, the location(s) of the documents anticipated to be incorporated into the administrative record, designate the contact person(s) responsible for identifying the agency personnel or other person(s) having custody of those documents, and must provide a listing of dates and times when those documents will be made available to petitioners or any party for inspection during normal business hours as the record is being prepared. This notice must be supplemented by the agency from time to time as additional documents are located or determined appropriate to be included in the record.
- b. Upon receipt of this preliminary notification, petitioners may elect to prepare the record themselves provided they notify the agency within five (5) calendar days of such receipt. If petitioners so elect, then within 40 calendar days of service of the initial notice to prepare the administrative record, petitioner will prepare and serve on all parties a detailed index listing the documents proposed by petitioners to constitute the record. Within seven (7) calendar days of this notification, the agency and/or other parties will prepare and serve the petitioners and all parties with a document notifying them of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record. The agency will promptly notify petitioners of any required photocopying procedures and/or conditions with which petitioners must comply in their preparation of the record.
- c. If petitioners do not so elect, then within 40 calendar days after service of the request to prepare the administrative record, the agency must prepare and serve on the parties a detailed index listing the documents proposed by the agency to constitute the record and provide a supplemental estimated cost of preparation. Within seven (7) calendar days of receipt of this notification, petitioners and/or any other parties must prepare and serve the agency and all parties with a document notifying the agency of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record.
- d. **Preparation by Petitioners:** Within 20 calendar days after receipt of petitioners' notice of election to prepare the record themselves, the public agency responsible for certification of the record must personally serve on petitioners a preliminary notification designating, to the extent then known, the location(s) of the documents anticipated to be incorporated into the administrative record, the contact person(s) responsible for identifying the agency personnel or other person(s) having custody of those documents, and the dates and times when those documents will be made available to petitioners or any party for their inspection and copying. This notice must state any required photocopying procedures and/or conditions with which petitioners must comply in their preparation of the record. This notice will be supplemented by the agency as additional documents are

located or determined appropriate to be included in the record. Within 40 calendar days after service of petitioners' notice of election, petitioners will prepare and serve on all parties a detailed index listing the documents proposed by petitioners to constitute the record. Within seven (7) calendar days of this notification, the agency and/or other parties must prepare and serve the petitioners and all parties with a document notifying them of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record.

(Effective 7/1/00; renumbered 1/1/19; renumbered 1/1/20)

**2.252.24 Format of Administrative Record**

- a. **Type of Paper:** The administrative record (record) must be prepared on paper, white or unbleached, of not less than 13-pound weight, 8 1/2 by 11 inches, using a photocopying process that will produce clear and permanent copies legible for printing. Only one side of the paper must be used and the margin must be no less than 1 1/4 inches on the left side of the page. Alternatively, original copies of the environmental documents may be lodged as part of the administrative record, provided that original copies are also provided to all parties in the lawsuit. The pages of the administrative record must be numbered consecutively and bound on the left margin. The use of recycled paper is encouraged.
- b. **Volume Designation:** The record must be provided in one or more volumes of not more than 300 pages per volume, separately bound. The cover of each volume of the administrative record must be the same size as its pages and contain the same material as the cover of a brief and must be prominently entitled "ADMINISTRATIVE RECORD." The first volume of the administrative record must have at the beginning an index of each paper or record in the order presented in the administrative record referring to each paper or record by title or description and the volume and page at which it first appears.
- c. **Organization:** The record in all matters other than Timber Harvest Litigation should be organized with the following documents (as applicable) at the front of the record, in the following order:
  1. The Notice of Determination.
  2. The resolution(s) or ordinance(s) adopted by the lead agency approving the project, including any resolution(s) or ordinance(s) adopted in compliance with Public Resources Code §§ 21081 and 21081.6.
  3. The draft or revised draft Environmental Impact Report and initial study.
  4. The comments received on and the responses to those comments prepared for the draft Environmental Impact Report or Negative Declaration, including any modifications to the environmental documents and project made after the comment period.



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5. The remainder of the final Environmental Impact Report (e.g., the technical appendices and other technical materials).
6. The staff reports prepared for the approving bodies of the lead agency.
7. Transcripts and/or minutes of hearings.
8. The remainder of the administrative record, preferably in chronological order.

The record in Timber Harvest Litigation should be organized with the following documents (as applicable) at the front of the record, in the following order:

1. The Timber Harvest Plan.
2. Amendments and other correspondence relative to the Timber Harvest Plan.
3. The Pre Harvest Inspection minutes and agency review letters.
4. The Official Response.
5. The notice of conformance.
6. Timely public comment letters.
7. Letters received after the close of the public comment period.

This listing of documents is not intended to dictate the content of the record, but instead is intended to describe a uniform order for documents typically contained in a record. The lead agency is encouraged to use tabs to separately identify each of these portions of the record. The parties are referred to Public Resources Code § 21167.6(e) as to what the record should contain.

*(Effective 7/1/00; amended 1/1/03; renumbered 1/1/19; renumbered 1/1/20)*

### **2.262.25 Certifying and Lodging the Record**

Upon completion of preparation of the record, it must be certified by the agency before it is filed with the court. If the agency has prepared the record, it must make such certification and personally serve and lodge the record in the appropriate court department no later than 60 days after the request. If the petitioners have elected to prepare the record, petitioners must transmit it to the agency for certification. After such certification, petitioners must then personally serve and lodge the record in the appropriate court department no later than 60 days after service of the notice of election to prepare. If the agency refuses to make a complete certification, it must make a partial certification, specifying any alleged defects in the record. Any extension of the 60 day time period may be obtained by filing a stipulation of the parties and obtaining court approval of the extensions prior to the expiration of the 60 day period. Also, an extension may

be obtained from the court upon a properly noticed hearing scheduled prior to the expiration of the 60 day period.

(Effective 7/1/00; amended 1/1/09; renumbered 1/1/19; renumbered 1/1/20)

**2.272.26 Disputes**

**Regarding the Contents of the Administrative Record:** Once the administrative record has been filed, any disputes about its accuracy or scope should be resolved by appropriate noticed motion. For example, if the agency has prepared the administrative record, petitioners may contend that it omits important documents or that it contains inappropriate documents; if the petitioners have prepared the record, the agency may have similar contentions. A motion to supplement the certified administrative record with additional documents and/or to exclude certain documents from the record may be noticed by any party and should normally be filed concurrently with the filing of petitioners opening memorandum of points and authorities in support of the writ. Opposition and reply memoranda on the motion should normally be filed with the opposition and memoranda, respectively; regarding the writ, the motion should normally be calendared for hearing concurrently with the hearing on the writ.

(Effective 7/1/00; renumbered 1/1/19; renumbered 1/1/20)

**2.282.27 Notice of Hearing**

The petitioner must notice a hearing date on the petition for writ of mandate consistent with Public Resources Code § 21167.4. The hearing will be noticed for not later than 160 days from the date of filing the petition.

(Effective 7/1/00; renumbered 1/1/19; renumbered 1/1/20)

**2.292.28 Briefing Schedule and Length of Memoranda**

- a. Unless otherwise ordered by the court, petitioner must file and serve personally, by overnight mail or, if previously agreed, by fax, an opening memorandum of points and authorities in support of the petition within 30 days from the date the administrative record is served.
- b. Respondent and Real Party in Interest must file and serve personally, by overnight mail or, if previously agreed, by fax, opposition points and authorities, if any, within 30 days following service of petitioner's memoranda of points and authorities.
- c. Petitioner will have 20 days from service of the opposition's points and authorities to file and serve personally, by overnight mail or, if previously agreed, by fax, a reply memorandum of points and authorities.
- d. The parties may agree upon a shorter time frame for briefing by written stipulation filed with the court.

- e. Any request for permission to file a memorandum in excess of the 15-page limit must be made pursuant to California Rules of Court rule 3.1113.

| *(Effective 7/1/00; renumbered & amended 1/1/07; renumbered 1/1/19; renumbered 1/1/20)*

**2.302.29 Settlement Meeting**

The initial notice required by Public Resources Code § 21167.8 must provide that, if the parties agree, the first meeting will be continued so as to take place no later than 35 days after the administrative record is served. If the parties do not agree to this continued first meeting date, then the first meeting must take place in accordance with Public Resources Code § 21167.8 and a second meeting is ordered to take place within five (5) days after the administrative record is served. The parties must agree as to the time and place of any meeting pursuant to Public Resources Code § 21167.8. Other meetings may be scheduled by the parties. The statement of issues required by Public Resources Code § 21167.8(f), must identify those portions of the administrative record that are directly related to the contentions and issues remaining in controversy. The court will utilize these statements in focusing on the legal and factual contentions and issues to be resolved. However, such contentions and issues must be consistent with the pleadings to be properly resolved by the court.

| *(Effective 7/1/00; renumbered 1/1/19; renumbered 1/1/20)*

**2.312.30 Trial Notebook**

Petitioner will prepare a trial notebook which must be filed with the appropriate trial department no later than five (5) days before the date of the hearing. The trial notebook will consist of the petition, the answer(s), the briefs, any motions set to be heard at trial, the statement of issues, and any other document(s) agreed upon by the parties.

| *(Effective 7/1/00; renumbered 1/1/19; renumbered 1/1/20)*

## **Chapter 3: Criminal Court Rules**

### **3.1    3.7—Request to Calendar**

~~In order to place a matter on calendar, counsel or a party~~ Parties wanting to place a matter on calendar must provide at least five (5) court days written notice to the court and opposing counsel by filing a Request to Calendar Case (Form #MCR-103-local) and supporting documents with the court clerk's office, ~~along with supporting documents.~~ ~~Any~~A request to place a matter on calendar for emergency matters ~~which~~that need to be heard ~~before~~sooner than the five (5) day notice requirement ~~must be accompanied by a~~requires a Declaration in Support of Order Shortening Time and an Order Shortening Time.

~~The only e~~Exceptions to the five (5) day rule ~~include~~are the following:

1. Motion to Continue (Penal Code § 1050)
2. ~~Filing of~~ Conflict of Interest Papers
3. OR/Bail Motion
4. Motion for Consolidation

*(Effective 1/1/10; renumbered 1/1/19; renumbered 7/1/19; renumbered & amended 1/1/20)*

### **3.2    Motions**

- a. **Motions to Suppress Evidence.** Motions pursuant to Penal Code § 1538.5 will be calendared no less than five (5) court days before trial.
- b. **995 Motions.** Motions pursuant to Penal Code § 995 to dismiss one or more charges in a felony case after the preliminary hearing will be calendared no less than five (5) court days before trial.
- c. **Discovery.** Discovery motions must be focused upon disputed items after presentation of informal requests. Boilerplate discovery motions are disfavored. Counsel must meet and confer before filing a motion to compel discovery or other discovery related matter in a good faith effort to resolve or narrow the disputed issues.
- d. **Pretrial Motions.** Unless otherwise ordered, all pretrial motions must be noticed in writing with a date obtained from the court clerk. A description of, and a reliable time estimate for, any motions must be provided to the court clerk. All papers pertaining to motions must be served and filed in compliance with California Rule of Court rule 4.111.

- e. **Motions in Limine.** Motions in limine will be set by the court a week before trial. The defendant(s) and counsel responsible for trying the case must be present. Pursuant to California Rules of Court rule 4.112, this will constitute a further trial readiness conference and counsel should be prepared to discuss any witness problems or scheduling issues. Absent any other order by the trial judge, any and all motions in limine must be in writing, filed with the court, and served on all parties at the earliest opportunity, but no later than the day before the commencement of the hearing.

*(Effective 1/1/20)*

### **3.3 Conferences**

- a. **Early Settlement Conferences.** For all misdemeanor charges, an early settlement conference date will be set. At the conference, all counsel who will participate in the trial must be present. Counsel are expected to have discussed the case among themselves and exchanged offers with a view toward resolving the matter prior to trial. If the case does not settle at the early settlement conference, counsel must inform the court of any special needs, interpreters, appointment of counsel for witnesses, and the estimated time for the hearing.
- b. **Pre-Preliminary Hearing Conference.** For all felony charges, a pre-preliminary hearing conference date will be set. At the conference, all counsel who will participate in the preliminary hearing must be present. Counsel are expected to have discussed the case among themselves and exchanged offers with a view toward resolving the matter prior to preliminary hearing.

If the case does not settle at the pre-preliminary hearing conference, counsel must provide the court with the name of the attorneys who will conduct the preliminary hearing on behalf of the people and the defendant.

- c. **Pretrial Conference.** At the time the defendant's not guilty plea is entered, the case will be set for pretrial conference at the discretion of the court, generally two (2) to four (4) weeks before the trial date. If not settled on that date, a further pretrial and readiness conference will be set one (1) week before trial. Counsel must confer among themselves, their clients, law enforcement personnel, and any alleged victims before the pretrial conference in a good faith effort to achieve resolution of the case without trial.

The conference will be attended by the lawyers who will try the case and counsel will be expected to advise the court either that (a) the defendant desires to change his/her plea to one that is acceptable to the People, or that (b) there is no possibility that the case can be disposed of without trial. If the case does not settle, counsel must inform the court of the time estimate for trial and any special requirements, including the need for interpreters that could affect the conduct of the trial.

*(Effective 1/1/20)*

**3.4 ~~3.5~~—Preliminary Hearing as VOP Hearing**

At the discretion of the court, and as permitted by law, the preliminary hearing will also constitute a violation of probation hearing for any trailing probation matter.

*(Effective 1/1/99; renumbered 7/1/08; amended 1/1/10; renumbered 1/1/19; renumbered 7/1/19; renumbered 1/1/20)*

**3.5 ~~3.10~~—Verdict Forms, Special Interrogatories, and Jury Instructions**

- a. Unless otherwise ordered by any pretrial conference order in the case or other order from the trial judge, verdict forms and special interrogatories must be submitted no later than 9:00 a.m. on the first day of trial.
- b. All requested and proposed jury instructions must be filed the day before the final trial readiness conference and/or motions in limine conference that is held during the week before the trial. Supplementary instructions can be submitted and received by the court at such time and condition as may be just.

*(Effective 7/1/19; renumbered 1/1/20)*

**3.6 ~~3.11~~—Sentencing**

~~When a case is called for~~ At sentencing, defense counsel must announce whether (a) defendant has received the probation report in a timely fashion; (b) defendant waives arraignment for sentence; and (c) there is any legal reason why judgment should not be pronounced.

Absent a showing of good cause, the court will not consider letters or other written submission which are not served on opposing counsel and lodged with the court, ~~to be placed in the defendant's file~~ by 2:30 p.m. on the day before the hearing.

A defendant should expect to be remanded to custody at the time set for sentencing ~~if where~~ (a) ~~the~~ defendant ~~has~~ failed to make or keep an appointment to be interviewed by the probation officer; or (b) the court imposes a prison sentence.

*(Effective 1/1/99; renumbered 7/1/04; renumbered 7/1/08; renumbered 1/1/19; renumbered & amended 1/1/20)*

**3.7 ~~3.12~~—Postponement of Surrender Date**

Following sentencing in a criminal case, if a defendant wants to postpone the date that he or she is ordered to surrender to the jail to serve court ordered incarceration, the defendant must file a declaration with the court no later the five (5) calendar days prior to the date of surrender, requesting such postponement and providing good cause for approving such request. The

declaration must be submitted to the court on [Declaration to Request Postponement of Jail Surrender Date \(Form #MCR-220-local\)](#).

(Effective 7/1/19; ~~renumbered 1/1/20~~)

**3.8 ~~3.13~~—Fee for Petition to Dismiss or Reduce Charges~~for Expungement Fee~~**

~~Upon~~ After review of actual costs involved in processing a petition pursuant to Penal Code § 1203.4/~~1203.4a~~ ~~(a) and 1203.4a(a) petitions~~, regardless of whether or not the petition ~~iss~~~~are~~ granted, the court finds that the actual costs of processing ~~asuch~~ petitions ~~is~~~~are~~ equal to or exceeds the fees set forth below.

- a. For a defendant who was ordered to serve a term of probation, the fee for a Petition for Dismissal pursuant to Penal Code § 1203.4(d) is \$150.00. A petition may not be filed with the court until the defendant has met all of the conditions specified in Penal Code § 1203.4(a)(1).
- b. For a defendant convicted of a misdemeanor charge(s) and not granted probation, or for a defendant convicted of an infraction, the fee for a Petition for Dismissal pursuant to Penal Code § 1203.4a(e) is \$60.00. A petition may not be filed with the court until the defendant has met all of the conditions specified in Penal Code § 1203.4a(a).

~~Penal Code § 1203.4(a) Petition — \$150.00~~

~~Penal Code 1203.4a(a) Petition — \$ 60.00~~

A petitioner must pay the court processing fee to the court or submit a completed Request to Waive Court Fees (Judicial Council Form FW-001) for the court's consideration at the time a petition for dismissal or reduction of charges is filed. The ability of a petitioner to pay ~~any~~~~the~~ fee ~~imposed in this order shall will~~ be determined by the court using the standard set forth in Penal Code § 987.8(g)(2) and ~~will~~~~shall~~ not be a prerequisite to a person's eligibility to file a petition. ~~The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the fee.~~

(Effective 1/1/18; renumbered 1/1/19; renumbered 7/1/19; ~~renumbered & amended 1/1/20~~)

**3.9 ~~3.14~~—Community Service/Conversion of Fees and Fines**

If authorized by the court and pursuant to Penal Code § 1202.4(n), 1205.3, or other applicable statute, court fees and fines may be converted to community service hours at a rate of \$24.00 per hour until December 31, 2019. The community service rate will increase to \$26.00 per hour for calendar year 2020, \$28.00 per hour for calendar year 2021, and \$30.00 per hour for calendar year 2022. Thereafter, the community service rate will be automatically adjusted to be two times the California minimum wage each time it increases in the future.

(Effective 1/1/19; renumbered & amended 7/1/19; ~~renumbered 1/1/20~~)



**3.10 ~~3.15~~ Termination of Criminal Protective Orders Issued**

The following procedures have been adopted to address criminal protective orders following plea, trial, dismissal, and the termination, revocation, or expiration of probation:

- a. **Criminal Protective Orders issued pursuant to Penal Code § 136.2:**
  1. The judge will direct the District Attorney or counsel for the defendant to prepare and submit for signature a [Notice of Termination of Protective Order in Criminal Proceeding \(Judicial Council Form CR-165\)](#) within thirty (30) days of the court no longer having jurisdiction over the case, including imposition of a state prison commitment.
  2. If the Criminal Protective Order is not addressed in court at the time of plea, at judgment and sentencing after court or jury trial, or at the time the charges are dismissed, the clerk of the court will, within thirty (30) days of resolution of the case, prepare a Notice of Termination and submit to the hearing judge for signature or to the presiding judge in their absence.
- b. **Criminal Protective Orders issued pursuant to Penal Code § 1203.097:**
  1. If probation is ordered revoked and terminated, the judge will direct the District Attorney or counsel for the defendant to prepare and submit for signature a [Notice of Termination of Protective Order in Criminal Proceeding \(Judicial Council Form CR-165\)](#).
  2. Upon granting of a motion pursuant to Penal Code § 1203.2, the judge will direct the District Attorney or counsel for the defendant to prepare and submit for signature a [Notice of Termination of Protective Order in Criminal Proceeding \(Judicial Council Form CR-165\)](#) within thirty (30) days.
  3. If the Criminal Protective Order is not addressed in court at the time of termination of probation pursuant to Penal Code § 1203.2, the clerk of the court will, within thirty (30) days of resolution of the case, prepare a Notice of Termination and submit to the hearing judge for signature or to the presiding judge in their absence.
- c. **Criminal Protective Orders issued pursuant to Penal Code § 273.5(j)**
  1. These orders may be issued for up to ten (10) years and will remain in effect whether there is probation or not unless specifically addressed otherwise.

(Effective 7/1/19; ~~renumbered~~ 1/1/20)



### **3.11 Search Warrant**

At the time the district attorney files a criminal complaint or information in a case in which a search warrant was previously executed by the district attorney or law enforcement, the district attorney must identify the search warrant number date signed and notify the court to place the search warrant in the criminal file. If the search warrant is sealed by order of the court, it will be placed in an envelope marked ‘sealed’. If the search warrant is not sealed, it will be made available for public inspection in the case file.

*(Effective 1/1/20)*

### **3.1—Arraignment**

~~At the time of the first arraignment, the district attorney shall make available to the defense counsel a copy of the police report and any other discovery in their possession unless it has already been so provided.~~

*(Effective 1/1/99; renumbered 7/1/08; renumbered 1/1/19)*

### **3.2—Motions to Suppress Evidence**

~~All motions to suppress evidence pursuant to Penal Code 1538.5, and all motions to dismiss pursuant to Penal Code 995 shall be calendared no later than five (5) court days before trial.~~

*(Effective 1/1/99; amended 1/1/03; renumbered & amended 7/1/08; renumbered 1/1/19; renumbered 7/1/19)*

### **3.3—Discovery**

~~Motions for discovery shall be focused upon specific items which remain in dispute after presentation of informal requests. ‘Boilerplate’ discovery motions are disfavored. Counsel shall meet and confer before filing any motion to compel discovery or other discovery related matter in a good faith effort to resolve or narrow the disputed issues.~~

*(Effective 1/1/99; renumbered & amended 7/1/08; renumbered 1/1/19; renumbered & amended 7/1/19)*

### **3.4—Pre-Preliminary Hearing Conference**

~~For all felony charges, a pre-preliminary hearing conference date shall be set. At the conference, all counsel who will participate in the preliminary hearing shall be present. Counsel are expected to have discussed the case among themselves and exchanged offers with a view toward resolving the matter prior to preliminary hearing. Should the case not settle at the pre-preliminary hearing conference, the prosecution shall provide the court with the name of the attorney who will conduct the preliminary hearing on behalf of the people and shall provide a reliable time estimate.~~

~~Both counsel for the people and for the defendant shall inform the court of any special needs, such as interpreters or appointment of counsel for witnesses, that are needed for the preliminary hearing, and the estimated time for the hearing.~~

~~(Effective 1/1/99; renumbered 7/1/08; renumbered 1/1/19; renumbered 7/1/19)~~

### **3.6 — Pretrial Motions**

~~Unless otherwise ordered, all pretrial motions shall be noticed in writing with a date obtained from the court clerk. Counsel shall provide the clerk with a description of, and a reliable time estimate for, any anticipated motions. All papers pertaining to motions shall be served and filed in compliance with California Rules of Court rule 4.111.~~

~~(Effective 1/1/99; amended 7/1/04; renumbered 1/1/07; renumbered 7/1/08; amended 1/1/10; renumbered 1/1/19; renumbered 7/1/19)~~

### **3.8 — Pretrial Conference**

~~At the time the defendant's not guilty plea is entered, the case shall be set for pretrial conference at the discretion of the court. Normally, pretrial conferences are set two (2) weeks before the trial date, and if not settled on that date, are continued one (1) week for further pretrial and readiness conference.~~

~~Before the conference, counsel shall confer among themselves, their clients, and any alleged victims or law enforcement personnel in a good faith effort to achieve resolution of the case without trial.~~

~~At that conference counsel for the people and for the defendant will be expected to advise the court either that (a) the defendant desires to change his/her plea to one that is acceptable to the People, or that (b) there is no possibility of a disposition of the case without trial.~~

~~The conference will be attended by those lawyers who will try the case. If the case does not settle, counsel shall inform the court of the time estimate for trial and any special requirements that would affect the conduct of the trial.~~

~~(Effective 1/1/99; renumbered 7/1/08; renumbered 1/1/19; renumbered 7/1/19)~~

### **3.9 — Motions in Limine**

~~The court will also set a date for motions in limine in the week before trial. Counsel for both sides who will be trying the case must be present, as well as the defendant(s). Pursuant to California Rule of Court rule 4.112, this hearing will constitute a further trial readiness conference. Counsel should be prepared to discuss any witness problems or scheduling issues. Absent any other order by the trial judge, any and all motions in limine must be in writing, filed with the court, and served on all parties at the earliest opportunity, but not later than the day before the commencement of the motions in limine hearing.~~

~~(Effective 7/1/08; renumbered 1/1/19; renumbered & amended 7/1/19)~~

## **Chapter 4: Family Court Rules**

### **4.1 Scope**

Family law matters include all matters related to the Family Law Act, Uniform Parentage Act, the Domestic Violence Prevention Act, the Uniform Child Custody Jurisdiction Act, and the Domestic Partnership Act.

Guardianship proceedings under the Probate Code will be treated as Family Law matters subject to the rules set forth in this chapter.

Title IV-D actions heard by the Child Support Commissioner will be treated as Family Law matters subject to the rules set forth in this chapter.

*(Effective 1/1/17; renumbered 1/1/19)*

### **4.2 Assistance for Self-Represented Litigants**

It is the policy of the court to refer self-represented litigants to the following resources for assistance with family law matters:

- a. **Family Law Facilitator:** The Family Law Facilitator will perform all duties prescribed or permitted by the Family Law Facilitator Act, Family Code § 10000 *et seq.* The Facilitator must be available during office hours and during Case Management Conferences to offer assistance to self-represented litigants. Please see the court website for the Facilitator's office hours:  
[www.mendocino.courts.ca.gov/divisions/family/family-flf.asp](http://www.mendocino.courts.ca.gov/divisions/family/family-flf.asp)
- b. **Self Help Legal Access Center (SHLA):** Staff in the Self Help Legal Access Center are also available to assist self-represented litigants with family law matters. Please see the court's website for the SHLA office hours:  
[www.mendocino.courts.ca.gov/self\\_help/SHLA.asp](http://www.mendocino.courts.ca.gov/self_help/SHLA.asp)

*(Effective 1/1/17 renumbered 1/1/19)*

### **4.3 Family Lay Facilitator Complaint Procedure**

As required by California Rules of Court rule 5.430(g), members of the public who are dissatisfied with services provided by the Family Law Facilitator may submit a complaint to the Court Executive Officer. All complaints must be submitted in writing ([Client Complaint Form, MFL-270-local](#)) and submitted to the Court Executive Officer at 100 North State Street, Room 303, Ukiah, CA 95482. Complaints may be hand delivered or mailed. The Court Executive Officer or designee will investigate such complaints and respond in writing to the complainant.

*(Effective 7/1/19)*

#### 4.4 Family Law Facilitator Disqualification Procedure

As required by California Rules of Court rule 5.34(f), if the family law facilitator deems that he or she is biased against one (1) or more parties in a family law matter, the family law facilitator must disqualify himself or herself from assisting those parties. Should the parties' need the assistance of a family law facilitator, the court will reach out to neighboring courts for such assistance on behalf of the parties.

*(Effective 7/1/19)*

#### 4.5 Family Law Case Management

In compliance with California Rules of Court rule 5.83, the court will actively manage dissolution, legal separation, nullity, and parentage cases in order to reduce unnecessary delay and expense, encourage reasonable preparation, and facilitate early settlement.

- a. **Scheduling of Family Law Case Management Conferences:** At the time of filing a petition for dissolution, legal separation, nullity, or parentage, an initial Family Law Case Management Conference will be scheduled by the clerk within 180 days. The clerk will deliver a [Notice of Family Law Case Management Conference \(Form #MFL-250-local\)](#) to the petitioner at the time that the petition is filed.

Family Law Case Management Conferences are heard on the fourth Monday of each month at 2:00 p.m. in the Ukiah court.

Family Law Case Management Conferences are heard on the first and third Friday of each month at 9:30 am in the Ten Mile court.

- b. **Petitioner Must Promptly Serve Notice of Family Law Case Management Conference:** A copy of the Notice of Family Law Case Management Conference must be served on the responding party, together with the summons and petition, and proof of service thereof must be filed promptly with the court. The summons, petition, and notice of case management conference should be served within 60 days of case initiation (California Rules of Court rule 5.83(c)(4)(A)).
- c. **Family Law Case Status Reports:** Each party must file and serve a [Family Law Case Status Report \(Form #MFL-251-local\)](#) at least five (5) days prior to the Family Law Case Management Conference.
- d. **Appearance at Family Law Case Management Conference:** Either the party or, if represented, the party's attorney, should appear at the Family Law Case Management Conference. At each conference, the court will review the status of the case, discovery issues, settlement options, alternative dispute resolution, and unresolved issues. The court may make any orders at the Family Law Case

Management Conference which it deems necessary, consistent with Family §§ Code 2450-2451 or 2032(d).

*(Effective 1/1/17; renumbered 1/1/19; renumbered & amended 7/1/19)*

#### **4.6 Requests for Orders**

- a. **Calendaring Request for Orders for Hearing:** Request for Orders regarding custody and visitation of children, child support, spousal support, property control, and other issues will initially be calendared for hearing on the family law law and motion calendar. Matters heard on the 9:30 a.m. law and motion calendar shall be limited to a maximum of 30 minutes. If the parties or through counsel believe that the matter will exceed 30 minutes, the matter may be continued by stipulation for an evidentiary hearing or may remain on the law and motion calendar for the purpose of setting and/or requesting temporary orders prior to the evidentiary hearing.
- b. **Meet and Confer Requirement:** Prior to the hearing on any Request for Order, the parties and, if represented, the parties' counsel, must have met and conferred in a good faith effort to resolve all issues. All relevant documents must be exchanged prior to or at the meet and confer session in the absence of good cause to the contrary. A failure to meet and confer may result in the matter being dropped from the calendar or continued in order to allow the parties to meet and confer. Failure to meet and confer in good faith will be considered by the court in connection with any request for award of attorney's fees or sanctions pursuant to Family § Code 271.
- c. **Unserved Request for Order:** If a Request for Order has not been timely served, the moving party should submit an application for [Request to Continue Hearing \(and Extend Temporary Emergency \(Ex Parte\) Orders\) \(Judicial Council Form FL-306\)](#). The court will not hear a Request for Order unless 1) a proof of service demonstrating timely service has been filed by the moving party; or 2) the opposing party personally appears and waives any defect in service on the record in open court. Even when the opposing party appears, however, the court will not hear a Request for Order unless a valid proof of service of summons and petition has been filed.
- d. **Evidence Required for Hearings Involving Financial Issues**
  1. **Income and Expense Declaration:** A current [Income and Expense Declaration \(Judicial Council Form FL-150\)](#) must be filed with both the moving and responsive papers for any hearing involving financial issues, including support and attorney fees and costs. An Income and Expense Declaration is current if it has been completed within three months of the hearing and providing no facts have changed. Supplemental, updated, or responsive Income and Expense Declarations must be served at least five (5) court days before the hearing. All portions of the form must be

completed. Insertion of the word “unknown” does not constitute compliance with this rule. The gross income of all persons living with the party must be provided on the Income and Expense Declaration. All cash, funds on deposit, stocks, bonds, and other easily sold assets must be fully disclosed.

To verify current income, parties must serve copies of the following documents with their Income and Expense Declaration if they are not otherwise required to be attached to the Income and Expense Declaration. Documents that are required by this rule to be served with the Income and Expense Declaration may be lodged with the court at the time of the hearing.

- a. **For salaried employees:** The prior calendar year W-2 and all pay stubs for the last two (2) months showing all forms of year-to-date earned income.
- b. **For self-employed individuals, including independent contractors:** A schedule reflecting all compensation received year-to-date and the last two (2) filed IRS 1040 Schedule C or C-EZ; profit-and-loss statements and balance sheets for the two (2) prior calendar years and the current year-to-date.
- c. **For employees who are shareholders in a closely-held corporation:** The prior calendar year W-2; all pay stubs for the last two (2) months showing all forms of year-to-date income; all IRS K-1s for two (2) prior years; the last filed IRS Schedule E (Part II); profit and loss statements and balance sheets for the two (2) prior calendar years and the current year-to-date.
- d. **For partnership income:** A schedule reflecting all compensation received year-to-date, all IRS K-1s for the two (2) prior years; the last filed IRS Schedule E (Part II); profit and loss statements and the balance sheets for the two (2) prior calendar years and the current year-to-date.
- e. **For rental income:** The last filed IRS Schedule E (Part I); summaries of all rental receipts, deposits, disbursements, and expenses for the prior calendar year and for all periods year-to-date.
- f. **For dividend income, interest income, trust income, or other earned income:** The prior calendar year IRS 1099s; the last filed IRS Schedule B; an itemized summary of all funds on deposit, shares of stock, bonds, or other income-producing assets owned, and the rate of return currently being paid thereon; and any income derived there from during the prior calendar year, and year-to-date.

2. **Disclosure of Income Tax Returns:** Parties must bring a copy of their most recent federal tax return to the hearing. In addition, when child, family, or spousal support is requested, a party may require the opposing party to provide copies of both state and federal income tax returns pursuant to Family § Code 3552. A request for tax returns must be made no later than 10:00 a.m. five (5) court days before the hearing. Copies of the tax returns including all schedules, W-2s, 1099s, and K-1s must be provided to the requesting party or counsel the earlier of five (5) court days after the request or 10:00 a.m. two (2) court days before the hearing. Tax returns served pursuant to this rule must not be filed with the court except as provided in Family Code § 3552.
3. **Child and Temporary Spousal Support Guidelines:** The court uses the DissoMaster™ computer program to calculate guideline child support (except in Department of Child Support Services enforcement actions) and temporary spousal support. In calculating temporary spousal support, the court uses the “Santa Clara” formula as contained with the DissoMaster™ computer program.
4. **Deviations from Guideline Child Support or Temporary Spousal Support:** Unless otherwise allowed by the court, if a party contends that the amount of support as calculated under the guideline formula is inappropriate, that party must file a declaration stating the amount of support alleged to be proper and the factual and legal bases justifying a deviation from guideline support. In its discretion, for good cause shown, the court may deviate from the amount of guideline support resulting from the computer calculation.
5. **Request for Attorney Fees**
  - a. **Attorney Declaration:** Any request for attorney fees or costs in excess of \$2,000 must be accompanied by a factual declaration completed by the attorney. The declaration must state the attorney’s hourly rate, the amount of fees due and payable, how fees requested were or will be spent, and identification of a source for payment of the fees. The declaration must further state such facts as may be relevant to the court’s determination of the reasonableness of the fees.
  - b. **Bifurcation Re: Fees and Costs:** Where counsel requests fees pursuant to Family § Code 271, the court will defer any decision until all other issues have been determined and will not receive an attorney’s declaration relating thereto until commencing consideration of the attorney fee issue.
6. **Request for Expert Fees:** Any request for expert fees must be accompanied by a factual declaration completed by the expert. The

declaration must state the expert's hourly rate, the scope of the expert's task, and an estimate of the number of hours required to complete the task.

7. **Request for Modification of Prior Support Orders:** The supporting declaration submitted in support of any request for modification of a prior child or spousal support order must include specific facts demonstrating a change of circumstances.

e. **Continuances**

1. **Stipulated Continuances:** After the Request for Order has been served, three (3) continuances (not counting continuances necessitated by the court due to overbookings for mediation or the lack of an interpreter) may be obtained by stipulation upon payment of the continuance fee.
2. **Continuances for Good Cause:** Other than as allowed in paragraph (e)(1), continuances must be obtained by appearance and order of the court upon good cause shown. Continuances of "special set" matters are discouraged. If the matter has settled, the parties must either appear in court and announce the settlement on the record or provide the court with a written settlement agreement or stipulation at, or prior to, the hearing. In the absence of a settlement or good cause shown, a "special set" matter generally will not be continued, but will be dropped from calendar without prejudice.

f. **Hearings on Request for Orders**

1. **Personal or Telephone Appearance Required:** A party, or his or her attorney, must personally appear at the hearing on a Request for Order or appear by telephone in accordance with local rule 1.94-8. If a party or attorney cannot appear as the result of illness, extreme economic hardship, or other good cause, that party, or his or her attorney, must immediately contact the other party and make all reasonable efforts to continue the hearing. In the absence of a settlement or an agreement to continue the hearing, the party who is unable to appear must file a declaration detailing the communication or attempted communication with the other party and request a continuance.
2. **Late Appearance:** If for any reason an attorney or party is unable to be present at the time the matter is called for hearing, he or she must immediately notify the clerk and the opposing party, by telephone, of the reasons for and the extent of the delay,
3. **Failure to Appear:** Failure of the moving party, or his or her attorney, to appear without notice to the responding party will in most cases result in the matter being dropped from the calendar. However, if a party who has filed a response to a Request for Order re custody and visitation appears and asks to go forward, the court may either continue the matter and award



attorney's fees to the responding party, or may enter an order on the pleading and testimony of the responding party. If the responding party fails to appear without notice to the moving party, the court will either continue the matter and award attorney's fees or may enter an order on the pleadings and testimony of the moving party.

(Effective 1/1/17; amended 7/1/18; renumbered & amended 1/1/19; renumbered & amended 7/1/19; amended 1/1/20)

#### 4.7 *Ex Parte*/Emergency Family Law Orders

- a. ***Ex Parte*/Emergency Orders Disfavored Except Upon Strong Showing of Potential Harm:** It is the policy of this court not to grant *ex parte*/emergency orders on the following subjects without a very strong factual showing of grave danger, emergency, or severe detriment to a party or a child prior to the time the issues can be properly set for a noticed hearing with the parties present and afforded an opportunity to be heard:
  1. Establishing or modifying child custody and visitation orders;
  2. Temporary use or possession of personal property;
  3. Temporary financial orders, including but not limited to temporary spousal support or child support;
  4. Removal of one party from the family home.
- b. **Declarations in Support of *Ex Parte*/Emergency Orders**
  1. All declarations must be based upon personal knowledge of the declarant. The court, in its discretion, may decide not to consider the merits of an unsubstantiated declaration which is based on hearsay and which is not subject to any recognized hearsay exception in deciding whether or not to grant *ex parte*/emergency relief.
  2. All declarations in support of *ex parte*/emergency relief must specifically describe the dates of incidents, provide a detailed factual description of what happened, and identify the specific harm which has been threatened or actually caused. Conclusions, feelings, wishes, or fears will not support a request for *ex parte*/emergency relief.
  3. The court must have accurate, complete information before deciding whether to issue an *ex parte*/emergency order. Accordingly, parties and attorneys must fully disclose relevant facts in preparing declarations in support of *ex parte*/emergency orders. **YOU MUST DISCLOSE WHETHER THE REQUESTED *EX PARTE*/EMERGENCY ORDER WILL RESULT IN A CHANGE OF THE STATUS QUO.**

c. **Notice to Opposing Party**

1. Notice of intent to file an *ex parte*/emergency request for temporary family law orders must be given to the opposing party or attorney no later than 10:00 a.m. one (1) court day before the application is scheduled to be reviewed by the court.
2. The application for *ex parte*/emergency orders, including all declarations, attachments, and other documents intended for judicial review, must be delivered to the opposing party or attorney by hand, fax, email, or text message which must include a picture of the moving papers no later than 10:00 a.m. one (1) court day before the application is scheduled to be reviewed by the court.
3. Notice may be waived if the court finds that:
  - a. Giving notice to the opposing party is impossible;
  - b. Notice would frustrate the purpose of the order; or,
  - c. Immediate or irreparable harm could be suffered if notice were given.

The party who requests *ex parte*/emergency relief without notice has the burden of presenting evidence which establishes a legal basis for waiver of notice.

- d. **Filing of *Ex Parte*/Emergency Order Requests:** All Requests for *Ex Parte*/Emergency Orders must be filed with the court clerk in the branch of the court at which the *ex parte* request has been calendared for hearing no later than 10:00 a.m. on the day the request has been scheduled for judicial review.

- e. **Opposition to Request for *Ex Parte*/Emergency Orders:** Opposition to the application, if any, must be faxed, emailed to the court at [exparte@mendocino.courts.ca.gov](mailto:exparte@mendocino.courts.ca.gov), or filed with the court clerk in the branch of the court at which the *ex parte* request has been calendared for hearing no later than 10:00 a.m. on the day that the request is scheduled for judicial review.

f. **Judicial review**

**Ukiah Court:** The court will review family law request for *ex parte*/emergency orders each day between 10:00 a.m. and 1:30 p.m. The court may issue a decision on the request for *ex parte*/emergency orders after the court reviews the application and the opposition, if any.

The court, in its discretion, may request oral argument prior to deciding whether to grant or deny the *ex parte*/emergency order. The court clerk will notify the parties by email (preferred) or phone by 1:30 p.m. that an oral argument will be heard that day at 4:00 p.m. Parties or attorneys may appear at oral argument in person or by CourtCall.

**Ten Mile Court:** The court will review family law requests for *ex parte*/emergency orders each day between 10:00 a.m. and 11:30 a.m. The court may issue a decision on the request for *ex parte*/emergency orders after the court reviews the application and the opposition, if any.

The court, in its discretion, may request oral argument prior to deciding whether to grant or deny the *ex parte*/emergency order. The court clerk will notify the parties by email (preferred) or phone by 11:30 a.m. that an oral argument will be heard that day at 1:15 p.m. Parties or attorneys may appear at oral argument in person or by CourtCall.

- g. **Orders Issued Without Oral Argument:** If a request for *ex parte*/emergency orders is decided without oral argument, the court's order will be provided to the parties in one of the following ways:
  - 1. Attorney's court box;
  - 2. Scan with electronic delivery;
  - 3. Pick up at the public counter after 1:30 p.m.; or,
  - 4. U.S. mail if a self-addressed stamped envelope is supplied with the application or opposition
- h. **Requests to Set Aside or Modify *Ex Parte*/Emergency Orders:** A request to set aside or modify an *ex parte*/emergency order may be brought prior to the scheduled hearing date only if the standards and procedures set forth in this rule are followed.

*(Effective 7/1/18; renumbered & amended 1/1/19; renumbered 7/1/19)*

#### **4.8 Party Requesting Domestic Violence Restraining Order Must Appear at Domestic Violence Restraining Order Hearings**

- a. The person requesting a domestic violence restraining order (DVRO) pursuant to Family § Code 6200 *et. seq.* must appear in person, via CourtCall, or through counsel of record at the following hearings:
  - 1. *Ex parte* request for temporary restraining order (TRO); and
  - 2. Hearing on Request for DVRO
- b. The failure of the party requesting the DVRO to appear at the *ex parte* hearing will result in the matter being dropped from the calendar and the Request for the DVRO being dismissed without prejudice.

- c. The failure of the party requesting a DVRO to appear at the hearing on the Request for DVRO without notice to the court or the opposing party will result in the TRO expiring, the matter being dropped from calendar, and the Request for DVRO being dismissed without prejudice

*(Effective 7/1/17; renumbered 7/1/18; renumbered 1/1/19; renumbered 7/1/19)*

#### **4.9 Child Custody and Visitation**

##### **a. Mediation**

1. **Personal Appearance by Parties Generally Required:** In all proceedings involving a contested issue regarding custody or visitation of a child, the parties must attend mediation prior to a hearing or trial. Failure to attend a scheduled mediation without good cause may result in sanctions against the party who fails to attend. Sanctions may include, but are not limited to, monetary sanctions, denial of relief sought, dismissal of Request for Order, entry of substantive orders, or contempt.
2. **Telephone Appearance for Mediation**
  - a. For good cause shown, a party may request the opportunity to appear for mediation by telephone. Examples of “good cause” include: a party resides out of state, a party or a member of a party’s family has a serious health issue which makes travel to court difficult or impossible, serving in the military, or the party would suffer extreme financial hardship if required to appear in person.
  - b. At least 15 days prior to the scheduled mediation, the party who wishes to appear by telephone must file and serve a [Request for Telephonic Appearance for Family Law Mediation \(Form #MFL-148-local\)](#). A reliable phone number must be included on the form. The mediator may grant or deny the request for a telephone appearance in his or her discretion. If denied by the mediator, the requesting party may request that the court approve his or her request to appear by telephone. The court’s decision on this issue is final.
  - c. A party approved for a telephone appearance must:
    - i. Complete and return the [Family Mediation Intake Form \(Form #MFL-230-local\)](#) by fax, email, or mail at least five (5) days prior to the scheduled mediation;
    - ii. Ensure that a private, secure telephone line is available for the duration of the mediation and take all reasonable steps to maintain the confidentiality of all communications which occur during the mediation.

3. **Non-Recommend Confidential Mediation:** Mediation sessions are confidential. The mediator conducting a confidential mediation will not make a report or recommendation regarding the child except as follows:
  - a. **Child at Risk:** As a mandated reporter, the mediator will make a report to Child Welfare Services if the mediator believes that a child is at risk of abuse or neglect.
  - b. **Threats of Death or Bodily Injury:** The mediator is required to report threats of death or great bodily harm made to a party, any other person, or to the mediator.
  - c. Without disclosing details from the mediation, the mediator may recommend that the court consider appointing counsel to represent the child or children or appoint a child custody evaluator.
4. **Children May Not Participate in Mediation Without Prior Authorization:** A child who is of sufficient age to express a meaningful preference (Family Code § 3042) may participate in mediation with the consent of all parties and the prior authorization of the mediator. Parties must not bring a child to court with the expectation that the child will be allowed to participate in mediation prior to obtaining the consent of the other party and the consent of the mediator.
5. **Mediator May Not be a Witness:** The mediator may not be called as a witness at any court hearing regarding any matter discussed during confidential mediation.
6. **Parties Do Not Reach Agreement:** If the parties do not reach agreement on some or all of the issues presented, the mediator will schedule a court hearing date and notify the parties, their attorneys, and the court.
7. **Ex Parte Communication:** Except as provided in Family Code § 216, there must be no *ex parte* communication between the attorney for any party (including minor's counsel) and the mediator, except to schedule appointments. No attorney or party will provide the mediator with documents relevant to the case without first giving copies to the other parties or attorneys.
8. **Interpreters:** The court will attempt to obtain the services of a certified interpreter for mediation if such is required by one or more of the parties. In the event that a certified interpreter is not available, a neutral person fluent in English and the party's native language may interpret for the party in mediation after signing a confidentiality agreement. In no case may a child of the parties serve as an interpreter.

9. **Mediation Complaints:** A party or attorney who wishes to lodge a complaint about a mediator must complete a [Client Complaint Form \(Form #MFL-270-local\)](#), and deliver it to the Court Executive Officer at the earliest opportunity. The Court Executive Officer or his or her designee (“investigator”) will conduct an investigation of the complaint which must include consultation with the mediator. Within 15 days of receiving the complaint, the investigator must decide whether to replace the mediator who is the subject of the complaint. The complainant will be informed in writing of the investigator’s decision, which will be final.
- b. **Parenting Apart Workshop:** In an action for dissolution of marriage or legal separation involving children, and in any action to determine paternity or any action for modification of custody and visitation, each parent is required to attend the Parenting Apart Workshop.

The petitioner should complete and submit the registration form to attend the Parenting Apart workshop (information found at [Triple P Mendocino](#)) in conjunction with the filing of his or her initial papers. The respondent should sign up to attend the workshop as soon as practicable after being served with the papers. Parents must not attend the same session or class.

Each parent must contact the agency designated by the court to obtain an appointment for a parent’s workshop, attend the workshop and pay all fees associated therewith. The court will require proof of satisfactory completion of the workshop. The completion or the failure to complete the workshop will be a factor that will be considered by the court in any further custody/visitation hearings.

- c. **Appointment of Counsel for the Child**
  1. **Generally:** In any family law proceeding as defined by local rule 4.1, the court may, if it finds it would be in the best interest of the child, appoint counsel to represent the interests of the child. (Family Code § 3151).
  2. **Compensation:** When the court appoints counsel to represent a child, counsel will receive a reasonable sum for compensation and expenses. Compensation and expenses will be determined by the court and paid by the parents in such proportion as the court deems just, or by the county pursuant to Family Code § 3153. Counsel shall utilize the billing procedures set forth in local rule ~~1.221.21~~.
  3. **Complaints:** A parent’s complaint about the conduct of or procedures employed by court appointed counsel for a child must be made in writing to the family law judge. A copy of the complaint must be provided to all parties. The court must determine what action, if any, to take, including whether the complaint should be referred to the appropriate professional licensing board. The court will explain its decision in a written ruling or on the record in open court. If a child complains about his or her court-

appointed attorney, the court may, in its discretion, follow the procedures set forth above or hold a confidential hearing akin to a Marsden hearing provided that a confidential verbatim transcript of said hearing is prepared.

d. **Child Custody Evaluations**

1. **Applicable Law:** This local rule is designed to implement Family Code § 3111, Evidence Code § 730, and California Rules of Court rules 5.225 and 5.230.
2. **Challenge for Cause:** The court will not permit a peremptory challenge of any court ordered evaluator. Any challenge for cause must be presented by noticed motion to the court at the earliest opportunity.
3. **Withdrawal by the Evaluator:** Any court ordered evaluator may petition the court for permission to withdraw from any particular case with notice of said request to be given to all parties of record.
4. **Complaints:** If a party, or his or her attorney, has a complaint regarding a court ordered child custody evaluator, he or she should bring the complaint to the attention of the court at the earliest possible opportunity using any means authorized by law. If the complaint is raised outside of a court hearing, the other party shall receive notice of the complaint prior to, or at the same time the complaint is filed with the court. The court may hold a hearing on the complaint or take other action as appropriate.
5. **Ex Parte Contacts with Evaluator:** No party or attorney for a party will initiate contact with a court appointed evaluator, orally or in writing, to discuss the merits of the case without giving the other party notice and an opportunity to be present and/or to receive a copy of the written communication. In accordance with Family Code § 216 and California Rules of Court rule 5.235, the judge will not have ex parte communication with the court appointed evaluator, the parties, or their attorneys regarding the case without written permission from the parties or their attorneys.
6. **Citing Authority and Purpose of Evaluation:** Upon ordering an evaluation, the court will specify under what code section the evaluator has been appointed and the purpose and scope of the evaluation. The court will further specify whether the evaluation must be a “full evaluation” or shall be “limited” in scope.
7. **Evaluator’s Education and Training:** Any court ordered evaluator shall adhere to the uniform standards of practice and the educational and training standards for court ordered custody evaluations contained in California Rules of Court rules 5.225 and 5.230, as well as Family Code §§ 1815, 1816, 3111, and 3118. All evaluators must file the Declaration of Child Custody Evaluator Regarding Qualifications form with the court

upon receiving the appointment and prior to the commencing of the evaluation process.

e. **Child's Participation in Custody Proceedings**

1. **Applicable Law:** This rule is intended to implement Family Code § 3042 and California Rules of Court rule 5.250. If any portion of this local rule is found to be in conflict with state law, the provisions of the statute or Rule of Court will control.
2. **Court to Determine Nature of Child's Participation Prior to Custody Proceeding:** Family Code § 3042 and California Rules of Court rule 5.250 give the court broad discretion to determine whether participation in a custody proceeding is in a child's best interest and, if so, how the child's input should be received. Accordingly:
  - a. No party or attorney, including court-appointed counsel for a child, will bring a child to court with the expectation that the child will participate in a custody proceeding *unless* the court has previously entered an oral or written order authorizing the child's participation.
  - b. A party, attorney for a party, evaluator, investigator or mediator who has information that a child wishes to address the court must inform the court and all other parties at the earliest opportunity using one of the methods described in subsection (c).
3. **Procedure for Obtaining Court Order Re Child's Participation in Custody Proceeding**
  - a. A party or attorney may request a court order regarding a child's participation in a custody proceeding by any of the following methods:
    - i. If the child is at least 14 years of age:
      - a. The child, or if the child is represented, the child's attorney, may ask the judge orally, in open court, or in writing, for an opportunity to address the court regarding custody and visitation issues. If the request is in writing and has not been served on all parties, the court must ensure that the written request is served on the parties or their attorney[s], and that the parties have an opportunity to respond before ruling on the child's request.
      - b. The parties may submit a stipulation signed by all parties or their attorney[s], including the child or



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court-appointed counsel for the child, setting forth the method by which the child will participate in the custody proceeding and requesting that the court adopt the stipulation as the court order. The court may, in its discretion, set a hearing to determine if the stipulation is in the child's best interest (California Rules of Court rule 2.50(c)(2)).

- ii. If the child is under 14 years of age:
  - a. The parties may submit a stipulation signed by all parties or their attorney[s], including, if applicable, court-appointed counsel for the child, setting forth the method by which a child will participate in the custody proceeding and requesting that the court adopt the stipulation as the court order. The court may, in its discretion, set a hearing to determine if the stipulation is in the child's best interest.
  - b. A party or his/her attorney may file a noticed Request for Order or an *ex parte* application for a court order determining whether a child may participate in a custody proceeding and the method of such participation.
  - c. At the time a custody matter is set for a trial or an evidentiary hearing, any party or his/her attorney of record may make an oral motion that a child participate in the trial or evidentiary hearing. The court may, in its discretion, take any of the following actions in response to the oral motion: (A) after considering argument by all parties, issue an oral ruling on the motion; (B) continue the matter for hearing; (C) appoint counsel for the child and continue the matter for hearing; or (D) take such other steps as the court deems proper.
- b. An evaluator, investigator, or mediator who has information that a child wishes to address the court must promptly inform the court and all parties or their attorney[s] using any method reasonably calculated to provide such notice. Upon receiving information from an evaluator, investigator or mediator that a child wishes to address the court, the court may, in its discretion: (A) set the matter for hearing; (B) appoint counsel for the child, or (C) take such other steps as the court deems proper.

4. **Evidentiary Issues**

- a. If the court decides that a child may be called as a witness in a custody proceeding, the court must consider and rule upon the issues set forth in California Rules of Court rule 2.50(d)(3)-(6).
- b. If the parties stipulate or the court orders that a child's input may be received by way of a child interview as set forth in California Rules of Court rule 2.50(d)(1)(E)), said stipulation and order will provide that the court may receive in evidence a written summary of the child interview or hear the testimony of the professional who conducted the child interview, including statements made by the child during the interview. Except as set forth herein, all other objections to the written summary or testimony are preserved.

*(Effective 1/1/17; renumbered & amended 1/1/19; renumbered & amended 7/1/19; amended 1/1/20)*

**4.10 Default or Uncontested Judgments**

- a. **By Affidavit or Declaration:** To obtain a Judgment of Dissolution or Legal Separation by Declaration (non-appearance) pursuant to Family Code § 2336, the following completed forms must be submitted to the clerk:
  1. Declaration for Default or Uncontested Dissolution, signed by one of the parties. In the absence of an agreement between the parties, the relief sought in the declaration must agree with relief sought in the petition. If either party is receiving public assistance, that fact must be stated.
  2. Current Income and Expense Declaration if (1) support is to be ordered, (2) there are minor children and child support is not reserved, or (3) the marriage has existed for 10 years or more, unless parties have otherwise agreed in a Marital Settlement Agreement or stipulation.
  3. Request to Enter Default or Appearance, Stipulation and Waiver, whichever applies.
  4. Original and two (2) copies of Judgment.
  5. Original and two (2) copies of Notice of Entry of Judgment.
  6. Two (2) pre-addressed, stamped envelopes with proper postage for the parties, with the return address of Superior Court of California, County of Mendocino.
- b. **Acknowledgment of Receipt of Proof of Service:** No default will be entered without filing a Proof of Service of Summons with the clerk. Unless the court orders otherwise, a default will not be entered based on a Notice and

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Acknowledgment of Receipt signed by a person other than the party to whom it is directed.

- c. **Child Support, Spousal Support, or Attorney Fees Awards:** No award of child support, spousal support, or attorney fees will be granted unless there is either an attached written agreement between the parties settling those issues, or there is sufficient information on which the court may base an order, including a fully completed and executed Income and Expense Declaration (with information on both parties where available and a support calculation, if applicable. If either party is receiving public assistance, the signature of an attorney in the Department of Child Support Services consenting to the child support provision must be affixed to the judgment. The judgment must contain a provision for medical support pursuant to Family Code §§ 3750-3753.
- d. **Community and/or Separate Property and Debts:** No division of community property (assets or debts) or confirmation of separate property will be ordered unless there is either an attached written agreement between the parties settling those issues, or there is a completed Property Declaration attached to and served with the Request to Enter Default.
- e. **Custody and Visitation:** Where the judgment is taken by default and either supervised visitation or denial of visitation is requested, unless a written agreement of the parties concerning custody and visitation is submitted with the judgment, a factual declaration under penalty of perjury must be submitted with the judgment. The declaration must be mailed to the defaulting party with the Request to Enter Default, and proof of mailing must be filed with the court. The declaration must include the following:
  - 1. **Where a party is seeking to deny visitation between the child and the defaulting party:** The specific reasons visitation should be denied; the date upon the last visitation between the child and the defaulting party occurred; and a statement that the whereabouts of the defaulting party is unknown, or, it known, the defaulting party's address.
  - 2. **Where a party is seeking supervised visitation between a child and the defaulting party:** The reasons such visitation should be supervised; when and where supervised visitation should occur; the name and address of the person or agency who/which will perform the supervision; and the method by which the supervisor is to be compensated.
  - 3. **Other information:** The date upon which the parties separated, the identity of the primary caretaker of the child during the last six (6) months, and the extent of contact between the child and the non-caretaker parent during that time.

- f. If the court, in its discretion, requires additional information in order to enter a default or uncontested judgment, the party or parties will be noticed of date and time to appear.

*(Effective 1/1/17; renumbered 1/1/19; renumbered 7/1/19)*

#### 4.11 Family Law Trials

- a. **Trial Setting:** At any time after a response to the petition has been filed, either party may request that a trial date be set by filing a [Request for Trial – Family Law \(Form #MFL-143-local\)](#), or by orally requesting a trial date at any Family Law Case Management Conference.
- b. **Mandatory Settlement Conference:** All family law trials estimated to take more than one day will be set for a mandatory settlement conference with either a judicial officer or a family law attorney serving as a settlement conference official. Any other family law matter may be set for a mandatory settlement conference at the request of the parties or in the discretion of the court. Mandatory settlement conferences must be conducted in compliance with local rule [4.124.13](#).
- c. **Parties to Exchange Information and Trial Briefs Prior to Trial:** The parties must exchange evidentiary documents, motions in limine, trial briefs and other documents expected to be used at trial in accordance with the rules governing civil trials set forth in local rules 2.1 through 2.6.
- d. **Continuances:** Continuances of Family Law trials shall be governed by local rule 4.6(e).
- e. **Return of Exhibits:** All exhibits and other materials offered in evidence or otherwise presented at trials/hearings, including transcripts of depositions and administrative records, will be returned at the conclusion of the matter to the custody of the offering party, unless otherwise ordered.

The custodial party must sign for all exhibits and other materials from the court clerk and must maintain all exhibits and other materials in the same condition as received from the clerk until 60 days after a final judgment or dismissal of the entire case is entered.

*(Effective 1/1/17; amended 7/1/18; renumbered & amended 1/1/19; renumbered & amended 7/1/19; [amended 1/1/20](#))*

#### 4.12 Mandatory Settlement Conferences

- a. **Discovery:** Discovery must be completed no later than five (5) court days prior to the settlement conference, except upon order of the court for good cause shown.
- b. **Settlement Conference Statements**

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1. **Time for Lodging and Service.** At least five (5) calendar days before the settlement conference, each party must prepare, lodge with the court, and service on the other party, a Settlement Conference Statement as set forth below. If service is by mail, an additional five (5) calendar days' notice is required.

2. **Contents**

a. **Income and Expenses:** In all cases where support or attorney fees is in issue, a current Judicial Council Income and Expense Declaration must be prepared, signed, and dated. In addition, all income and other financial information as required by local rule 4.6(d) shall be attached.

b. **Assets and Liabilities:** In all cases where property issues (characterization, division, and/or valuation) are unresolved, each party must prepare a comprehensive inventory of all assets (real and personal) and liabilities claimed by the community property and/or community debt. This inventory can either be typed on applicable Judicial Council forms, or may be prepared in any form which contains substantially the same information as set forth on the Judicial Council forms.

The parties must attach to their Settlement Conference Statements copies of the completed inventory assets and liabilities forms indicating their claim to values and proposal for division of property.

In all cases where the characterization of real or personal property of the parties (whether community or separate) or reimbursement for contributions to the community from a separate property source is in issue, the parties must set forth all of the facts upon which their claims are based and cite appropriate legal authorities for each of those claims.

c. **Contentions about Child and Spousal Support:** Both parties must specify their contentions as to the amount of child support and amount and duration of spousal support. Include calculations showing guideline child support. If any child is a recipient of public assistance, and the Department of Child Support Services is the assignee of the support, the statement must show that the Department of Child Support Services has been notified of the time and date of the Settlement Conference and has been provided copies of all pertinent, current financial documents (*i.e.* Income and Expense Declarations, support calculations, etc.).

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- d. **Contentions about Attorney Fees, Accountant Fees, Expert Fees, and Costs:** Both parties must include in their statement their position regarding requests for attorney and accountant fees, other expert fees, and court costs. Where appropriate, such requests must be supported by adequate documentation.

*(Effective 1/1/17; renumbered & amended 1/1/19; renumbered & amended 7/1/19)*

**4.13 Transportation of Prisoners to Family Law Hearings**

- a) Except as provided for by law, when the parental or marital rights of any inmate of the Mendocino County Jail are subject to adjudication, the inmate may request to be transported to court by submitting a [Request to be Transported Pursuant to Penal Code 2625 \(Form #MMC-122-local\)](#).
- b) Persons incarcerated in State Prison, California Rules of Court, or the Division of Juvenile Justice, whose parental rights are subject to adjudication, may request to be transported to court by submitting an [Order for Prisoner's Appearance at Hearing Affecting Prisoner's Parental Rights \(Judicial Council Form JV-450\)](#).

*(Effective 7/1/09; amended 1/1/10; amended 1/1/17; renumbered & amended 1/1/19; renumbered 7/1/19)*

## **Chapter 7: Traffic Court Rules**

### **7.1 Traffic Filings**

The traffic division of the clerk's office is responsible for all traffic and non-traffic infractions.

*(Effective 1/1/99; renumbered 1/1/19)*

### **7.2 Adjudication of Miscellaneous Infraction Matters**

- a. Staff in the clerk's office have the authority to take the following actions, at the request of defendants charged with infraction violations, whether or not cases have been transferred to court collections:
  1. Advise defendants of their right to plead not guilty and appear for trial without posting bail and grant bail waivers to defendants who plead not guilty and schedule appearances in contested traffic court.
  2. Accept the posting and forfeiting of bail on infraction violations.
  3. Allow defendants to convert previously ordered community service to fine/bail one time only.
  4. Allow defendants to convert fines to community service and make arrangements to perform community service through Mendo-Lake Alternative Services (MLAS).
  5. In limited circumstances and if the defendant lives within California but outside of Mendocino County, upon payment of an administrative fee to MLAS, authorize a defendant to perform community service that is overseen by a community service agency in the county in which the work is to be performed.
  6. Grant request for a 90-day extension of time from the original due date on the citation to pay or to provide proof of completion of community service, traffic violator school or correction of correctable offense(s).
  7. Accept requests to stay execution of court orders pending the outcome of infraction appeals.
  8. For defendants who previously signed up for traffic violator school and upon payment of \$25 court costs, accept late completion of traffic violator school within 60 days of the date a conviction abstract was sent to the Department of Motor Vehicles (DMV).

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9. For defendants who did not previously sign up for traffic violator school and upon payment of \$74 traffic violator school fee and \$25 court costs, accept late completion of traffic violator school within 60 days of the date a conviction abstract was sent to the DMV.
  10. Refer defendants for arraignment, upon request of defendants or their counsel.
  11. Allow defendants to withdraw not guilty plea, enter a plea of guilty and vacate court trial.
  12. Allow defendants to file declarations to request fine reductions, based on a defendant's ability to pay the bail, fines, fess, penalties or other assessments, even after cases have been referred to County Collections.
  13. For offenses designated as potentially eligible for correction or those offenses specified in Vehicle Code § 40303.5, grant an automatic reduction of the violation amount to \$25 and dismiss the charge if proof of correction is provided in a form authorized by the law.
  14. For violations of Vehicle Code § 12500 or 12951, grant an automatic reduction of the charge amount to \$25 and dismiss the charge if proof of valid driver's license is provided.
  15. For violations of Vehicle Code § 4000(a), grant an automatic reduction of the charge amount to \$25 and dismiss the charge if proof of current registration is provided.
  16. For violations of Vehicle Code § 16028, grant an automatic reduction of the charge amount to \$25 and dismiss the charge if proof of current auto insurance or insurance at the time of the offense is provided.
  17. For violations of Vehicle Code § 40610, grant an automatic reduction of the violation amount to \$25 and dismiss the charge if proof of correction of mechanical violations is provided.
- b. The court will not authorize clerks to grant any of the following requests:
1. Reset contested court trial within 10 calendar days of the scheduled court hearing date.
  2. Reset second or subsequent date for court trial.
  3. Dismissal of charges following a period of "no further violations".
  4. Remand to county jail in lieu of payment of bail or fines and fees.



5. Accept proof of correction and give refund following bail forfeiture or payment in full of fines and fees.
6. Grant subsequent extension, following an initial 90-day extension, of time to pay or to provide proof of completion of community service or traffic violator school, or proof of correction of correctable offense(s).
7. Grant subsequent extension, following an extension granted by a judicial officer, of time to pay or to provide proof of completion of community service or traffic violator school or to provide proof of correction of correctable offense(s).
8. Submit an amended abstract to the DMV upon submission of a late traffic violator school certificate, if submission is 61 days or greater from the date a conviction abstract was sent to the DMV.
9. Grant traffic violator school or community service following a defendant's failure to appear for a contested traffic trial, where case has been sentenced in abstentia.
10. Grant out of state community service

*(Effective 1/1/2020)*

### 7.3 Traffic Violator School

The court may accept ~~attendance at a~~ Certificate of Completion of Traffic Violator School to ~~satisfy the requirements to submit a confidential conviction to the DMV to mask the reportable violation(s) from a traffic defendant's certified traffic school as grounds for a masked conviction from their~~ public driving record.

In addition to the eligibility criteria established pursuant to California Rules of Court rule 4.104, traffic violator school may be authorized by the clerk without further referral to a judicial officer if the defendant has not attended traffic violator school for a violation that occurred fewer than within the last 18 months prior to the current violation ~~and the speed is violation of 25 miles or less over the posted speed limit.~~

An administrative fee ~~must~~shall be paid to the court prior to a defendant participating in ~~collected as a prerequisite to attendance or authorization of~~ traffic violator school.

*(Effective 1/1/99; renumbered & amended 1/1/07; renumbered 1/1/10; amended 1/1/12; renumbered 1/1/19; amended 1/1/20)*

### 7.4 Trial by Written Declaration

The court adopts the trial by written declaration process defined in Vehicle Code § 40902. Defendants may plead not guilty and submit a Request for Trial by Written Declaration (Judicial Council form TR-205) and any witness statements or other evidence with the full amount of the

~~bail as shown on the defendant's courtesy notice at the time of filing. The court will subpoena the citing officer to submit an officer's statement. The court will rule on the evidence provided and will notify the defendant of the ruling by mail. If the charges are dismissed or if the defendant is found not guilty, the full amount of the bail will be promptly refunded by the court. Additionally, pursuant to Vehicle Code 40903, any person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration upon any alleged infraction, as charged by the citing officer, involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the code. In eligible cases the court will conduct the trial in absentia and it will be adjudicated on the basis of the notice to appear issued pursuant to Vehicle Code 40500 and any business record or receipt, sworn declaration of the arresting officer, or written statement or letter signed by the defendant that is in the file at the time the trial by declaration is conducted.~~

~~If there is a guilty finding, the conviction shall be reported to the Department of Motor Vehicles (DMV) and the defendant notified of the disposition of the case, the amount of imposed fines, fees, and the defendant's right to request a trial de novo within a specified period of time. If there is no timely request for a trial de novo and the fines and fees are not paid by the due date, the case will proceed to civil assessment pursuant to Penal Code 1214.1. Additionally, the DMV will be notified of the failure to pay pursuant to Vehicle Code 40509.5(b), which can result in a suspension of the defendant's driver's license pursuant to Vehicle Code 13365(a)(2) until all obligations to the court are satisfied.~~

~~(Effective 7/1/12; renumbered 1/1/19; amended 1/1/20)~~

## **~~7.2 — Continuance Policy~~**

~~On or before the due date, the clerk may grant a continuance of not more than 90 calendar days.~~

~~After a case has been continued up to the 90 days, any request for a continuance must be made to a judicial officer.~~

~~(Effective 1/1/99; amended 7/1/08; renumbered 1/1/10; amended 1/1/11; amended 1/1/12; renumbered 1/1/19)~~

## **Chapter 8: Appellate Court Rules**

### **8.1 Assignments**

The presiding judge of the court will recommend to the Presiding Judge of the California Supreme Court the assignment of a judge to act as the presiding judge of the appellate division. The presiding judge of the appellate division will recommend judges to serve as members of the appellate division each year.

*(Effective 7/1/04; amended 7/1/08; renumbered 1/1/19)*

### **8.2 Regular & Special Sessions**

Regular sessions of the appellate division of the court will be held on the third Friday of each calendar month. Motions will be heard at regular sessions, unless otherwise designated by the presiding judge of the appellate division. Special sessions will be set at the discretion of the presiding judge of the appellate division.

*(Effective 7/1/04; amended 7/1/08; amended 1/1/18; renumbered 1/1/19)*

### **8.3 Oral Argument**

Unless otherwise ordered, counsel for each party will be allowed no more than 15 minutes for oral argument. The appellant or the moving party will have the right to open and close.

*(Effective 7/1/04; renumbered 1/1/19)*

### **8.4 Briefs**

Each party must file with the clerk of the court an original brief with three (3) copies.

*(Effective 1/1/04; renumbered & amended 1/1/07; amended 7/1/08; amended 1/1/10 renumbered 1/1/19)*

### **8.5 Clerk's Transcript on Appeal – Limited Jurisdiction**

#### **a. Limited Civil Cases**

1. Pursuant to California Rules of Court rule 8.833, the original trial court file may be used instead of a clerk's transcript.
2. This rule does not relieve appellant of his/her duty to comply with California Rules of Court rule 8.831, nor does it eliminate Respondent's right to seek to augment the record, pursuant to California Rules of Court rule 8.832(b)(1).

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3. Within 10 calendar days of the filing of Appellant's notice(s) designating the record on appeal, the clerk will mail the appellant a notice that the appellate division elects to use the original trial court file instead of a clerk's transcript and an estimate of the cost to prepare the file, including the cost of preparing and sending the index for the use of all parties, pursuant to California Rules of Court rule 8.833(b).
4. Within 10 calendar days after the appellant deposits the cost or the court files an order waiving that cost, the clerk shall arrange the entire original limited civil case file in chronological order, number the pages, and attach a chronological index and a list of attorneys of record indicating the parties they represent. The clerk will send copies of the index to counsel of record for each party and to each unrepresented party for use in paginating their files in accordance with the chronological index. If no notice to prepare a reporter's transcript has been filed pursuant to California Rules of Court rule 8.831(b)(5), the clerk will forthwith notify the parties of the briefing schedule. If a notice to prepare a reporter's transcript has been filed, the clerk will wait until that transcript has been filed before notifying the parties and setting the case for settlement of the record and briefing~~setting the case for briefing and notifying the parties thereof~~. Upon receipt of briefs, or the expiration of time to file respondent's and/or closing briefs, the clerk will set the appeal for hearing and notify all parties of the hearing date and location.
5. This order will not preclude the parties' rights to proceed pursuant to California Rules of Court rule 8.836 or 8.837.

**b. Misdemeanor Cases**

1. Pursuant to California Rules of Court rule 8.863, the original trial court file may be used instead of a clerk's transcript.
2. Within 20 calendar days of the filing of the notice of appeal, the clerk will arrange the entire original criminal case file in chronological order, number the pages, and attach a chronological index and a list of attorneys of record indicating the parties they represent. The clerk must send copies of the index to counsel of record for each party and to each unrepresented party for use in paginating their files in accordance with the chronological index.
3. Pursuant to California Rules of Court rule 8.864, the appellant must notify the trial court whether he or she elects to proceed with or without a record of the oral proceedings appellant elects to use. If appellant elects to proceed with a statement on appeal, appellant must follow the rules set forth in California Rules of Court rule 8.869 for obtaining a settled statement.

4. Once the record is ~~settled~~~~complete~~ and filed, the clerk will notify the parties of the briefing schedule. Upon receipt of the briefs, or the expiration of time to file respondent's and/or closing briefs, the clerk will set the appeal for hearing and notify all parties of the hearing date and location.

c. **Infraction Cases**

1. Pursuant to California Rules of Court rule 8.914, the original file may be used instead of a clerk's transcript.
2. Within 20 calendar days of the filing of the notice of appeal, the court file will be arranged in chronological order with the pages numbered. A chronological index and a list of attorneys of record indicating the parties they represent will be prepared and included in the file.
3. Traffic and infraction cases generally do not have a court reporter present, nor is electronic recording employed. Pursuant to California Rules of Court rule 8.915(d), the clerk will notify the Appellant if any portion of the oral proceedings were not reported or recorded, or cannot be transcribed. Within 15 days after this notice is mailed by the clerk, Appellant must serve and file a notice stating whether Appellant elects to use a statement on appeal (California Rules of Court rule 8.916) as the record for the portion of the proceedings that was not recorded or cannot be transcribed. (California Rules of Court rule 8.915(d)).
4. Within 10 calendar days after certification of the statement on appeal, a complete copy of the file, including the chronological index and attorney listing will be sent to all parties to the case. The clerk will notify the parties of the briefing schedule. Upon receipt of briefs, or the expiration time to file respondents and/or closing briefs, the clerk will set the appeal for hearing and notify all parties of the hearing date and location.

*(Effective 7/1/12; renumbered 1/1/18; renumbered 1/1/19; amended 1/1/20)*

**8.6 Clerk's Transcript on Appeal – General Jurisdiction**

The clerk will transmit the clerk's transcript on appeal to the First District Court of Appeal or the California Supreme Court through an electronic interface with those courts. The clerk shall prepare copies of the clerk's transcript for parties to the appeal on USB drive(s) and send such drives via first class mail to the parties.

*(Effective 1/1/20)*